

**TESTIMONY OF GAY & LESBIAN ADVOCATES & DEFENDERS
IN SUPPORT OF HB 1661**

New Hampshire General Court Health, Human Services and Elderly Affairs Committee
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Submitted by:
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Gay & Lesbian Advocates & Defenders works in New England and nationally to create a just society free of discrimination based on gender identity and expression, HIV status, and sexual orientation through strategic litigation, public policy advocacy, and education. GLAD strongly supports HB 1661, which prohibits persons licensed to provide professional counseling from engaging in the discredited and harmful practice of seeking to change a minor's sexual orientation or gender identity. The imposition of "conversion therapy," especially on minors, is a remnant of our nation's shameful history of oppression of lesbian, gay, bisexual and transgender people. Its premise is that homosexuality is abnormal behavior and a mental disorder that must be changed. The New Hampshire legislature has a proud history of eradicating discrimination against LGBT people as well as enacting laws that ensure the health, safety, and welfare of children. The passage of HB 1661 is a critical step necessary to further these goals.

Summary of Points

GLAD submits this testimony to highlight the following points:

(1) The passage of HB 1661 is a significant step New Hampshire can take in creating a better world for all LGBT youth. LGBT youth devalue themselves, and are devalued by others, because our society has not yet fully eradicated the historical conception that it's not okay to be lesbian, gay, bisexual, or transgender. The prohibition of "conversion therapy," which has its

roots in the notion that it is not normal to be lesbian, gay, bisexual or transgender, is a powerful step the legislature can take to counter that harmful message.

(2) HB 1661 is necessary to protect the physical and psychological health, welfare and safety of minors in New Hampshire. The practice of conversion therapy has been discredited in the medical community as ineffective in changing sexual orientation or gender identity, and has been shown to be harmful to the psychological and physical well-being of all persons subjected to it – especially minors.

(3) Courts have upheld the constitutionality of bans on conversion therapy as within the state’s well-established power to regulate healthcare and legislate for the welfare of children.

1. Passage of HB 1661 Will Help all LGBT Youth, Not Just Those Who May be Subjected to “Conversion Therapy.”

Although New Hampshire has been among our nation’s leaders in establishing legal equality for LGBT people, remnants of discrimination remain and have a particularly harmful impact on LGBT youth. Many LGBT youth in our society still grow up believing that there is something “wrong” with them because of their sexual orientation or gender identity. In New Hampshire, suicide is the second leading cause of death for youth ages 15-24, and the fourth most common cause for youth ages 10-14.¹ Recent national research demonstrates that students who identify as lesbian, gay, bisexual or transgender are 2 to 7 times more likely to attempt suicide.² The harms that come to LGBT youth as a result of negative feelings about their own identities, as well as the prevalence of bullying and harassment by others can be traced in significant part to the underlying notion of abnormality or “otherness.” Many LGBT youth still

¹ New Hampshire Department of Health and Human Services. 2011 New Hampshire State Health Profile. Retrieved at <http://www.dhhs.nh.gov/dphs/documents/2011statehealthprofile.pdf>

² Ann P. Haas, Ph.D., et al., “Suicide and Suicide Risk in Lesbian, Gay, Bisexual and Transgender Populations: Review and Recommendations,” *Journal of Homosexuality*, Volume 58, Issue 1, 2011.

grow up believing that there is “something wrong” with who they are, increasing their risk of adverse mental health outcomes. Passage of HB 1661 will send a powerful and important message to all people: there is nothing about one’s sexual orientation or gender identity that needs to be changed because being gay, lesbian, bisexual or transgender is normal and healthy.

(I) “Conversion Therapy” has Been Discredited, is Contrary to Modern Medical Science, and Subjects Minors to Profound Harm.

The history of “conversion therapy” is a disgraceful chapter in our mistreatment of lesbian, gay, bisexual and transgender people. The practice of “conversion therapy” dates to the mid-twentieth century when homosexuality was considered to be a mental disorder and homosexual conduct was criminalized. Mental health professionals sought to “cure” homosexuality by a variety of techniques, which included horrific aversive therapies such as electroshock, nausea-inducing drugs, and even lobotomies and castration. Homosexuality was removed from the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association in 1973. Nonetheless, some practitioners have continued to practice “conversion therapy,” most often under the guise of “talk therapy” aimed at eradicating same-sex desire and orientation.

Today there is a consensus among the medical and mental health professional groups that any such practices are ineffective and unethical and subject patients to significant harm. As referenced in HB 1661, the American Psychological Association concludes that conversion therapy “may pose serious risk of harm,” such as “confusion, depression, guilt, helplessness, hopelessness, shame, social withdrawal, and suicidality.”³ The American Psychiatric Association states that “the potential risks of reparative therapy are great, including depression, anxiety, and

³ American Psychological Association. Report of the American Psychological Association Task Force on Appropriate Therapeutic Response to Sexual Orientation, 79, 50. Washington, DC, (2009). Retrieved from <http://www.apa.org/pi/lgbt/resources/therapeutic-response.pdf>.

self-destructive behavior.”⁴ In addition, the American Academy of Child and Adolescent Psychiatry has determined that there is “no evidence that sexual orientation can be altered through therapy,” and that there is no medically valid basis for attempting to prevent homosexuality, which is not an illness.”⁵ The legislature should enact HB 1661 in order to protect children and adolescents from those licensed health care professionals who subject minors to harm through a practice that has proven not to work, inflicts well-documented and profound suffering, and is far outside the bounds of any ethical or acceptable medical practice today.

(II) Courts Have Upheld the Authority of States to Regulate the Harmful Practice of Conversion Therapy.

This legislation falls squarely within the state’s well-established police. Moreover, New Hampshire recognizes the protection of minors within its jurisdiction as a compelling state interest.⁶

The two federal appeals courts that have addressed this type of legislation have upheld the state’s authority to regulate the practice of healthcare and in particular to ban harmful conversion therapy. In *Pickup v. Brown* and *Welch et al. v. Brown et al.*, the U.S. Court of Appeals for the Ninth Circuit ruled that a California law prohibiting state-licensed therapists from trying to change the sexual orientation or gender expression of a patient under 18 years old could be enforced.⁷ Similarly, in *King v. Governor of N.J.*, the U.S. Court of Appeals for the

⁴ Just the Facts Coalition. Just the Facts about Sexual Orientation and Youth: A Primer for Principals, Educators, and School Personnel, 6-7. Washington, DC: American Psychological Association, 2008. Retrieved from www.apa.org/pi/lgbq/publications/justthefacts.html.

⁵ For a list of similar statements by medical and mental health organizations, see Human Rights Campaign, The Lies and Dangers of Efforts to Change Sexual Orientation or Gender Identity, <http://www.hrc.org/resources/entry/the-lies-and-dangers-of-reparative-therapy> (last visited July 12, 2013).

⁶ See *In re R.A.*, 153 N.H. 82 (2012); *In re Sandra H.*, 150 N.H. 634 (2004)

⁷ See *Pickup v. Brown*, 740 F.3d 1208 (9th Cir. 2014)

Third Circuit affirmed that a New Jersey law prohibiting conversion therapy was constitutional.⁸ The New Hampshire legislature clearly has the authority to pass this law to regulate the practice of healthcare, particularly in the area of the welfare of children.

Conclusion

HB 1661 is narrowly tailored to prevent a well-documented risk of harm to minors and to eradicate a purported healthcare practice that is contrary to medical science and based on discredited views of sexual orientation and gender identity. GLAD strongly supports HB 1661.

⁸ See *King v. Governor of N.J.*, 767 F.3d 216 (3d Cir. 2014).