

Georgia insight

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"She hath done what she could."
Mark 14:8a
"...and having done all ... stand."
Ephesians 6:13c

In 2004 Anti-Gay Counseling was Banned in DHR-Funded Children's Services

Since 2012, four States & D.C. have totally banned anti-gay counseling by anyone, including religious counselors, volunteers, and licensed psychologists.

In 2015, two states killed such bans; 14 states have anti-gay counseling bans in committee.

Georgia' anti-gay counseling ban. *Bellmore v. UMCH*, filed August 2002 by Lambda Legal Defense against United Methodist Children's Home (UMCH) of the North Georgia Conference, the State Department of Human Resources (DHR) and then-Commissioner Jim Martin, had state-wide implications. The crux of the case was the State's provision of some 50 percent of the daily cost for each of about 70 foster care children in the UMCH Decatur, Georgia facility, where all resident minors participated in religious services.

The Lambda lawsuit charged that State funding of UMCH encouraged religious indoctrination and job discrimination, specifically, citing UMCH's (a) "anti-homosexual indoctrination," (b) its refusal to hire gay or lesbian staff, and/or (c) the failure to provide pro homosexual services to gay and lesbian residents. Lambda requested the following remedies:

- (a) Reinstate and compensate certain employees terminated because they are homosexual;
- (b) Hire applicants who are not Christian; and
- (c) Stop requiring resident children to attend religious services.

Had the case gone to court, only UMCH would have suffered the consequences, but the case was settled between Lambda Legal Defense & Education Fund, Inc., and the DHR. Lambda's Supervising Attorney signed the settlement September 29, 2003; Defendant Commissioner Jim Martin signed it for himself and the Georgia Department of Human Resources on October 1, 2003, 12 days after he resigned the DHR. Although UMCH and every provider of children's services in Georgia bear the brunt of the changes, UMCH was not a signatory on the agreement.

UMCH was set up! Lambda plaintiffs had prior knowledge that the UMCH shared religious beliefs with resident children. Plaintiffs interviewed, also, were informed that all applicants were required to read and complete "The United Methodist Children's Home Position on Family, Marriage, and Human Sexuality." Then, sign a document containing these statements:

"Although all persons are sexual beings whether or not they are married, sexual relations are only clearly affirmed in the marriage bond ... we do not condone the practice of homosexuality."

Knowing UMCH's stance that homosexuality is a sin, the applicant completed the employment documents without revealing her sexual orientation and was hired. In six months administrators learned that she misrepresented herself, and released her. Other plaintiffs signed a document stating, "I understand the above positions of the UMCH and will support them by precept and example while affiliated with the Children's Home."

Lambda and the State Department of Human Resources settled out of court and the state had a year to comply, which gave the DHR 12 months to adjust policy and rewrite regulations.

Results of UMCH Decision

The UMCH settlement is limited, in that it applies to DHR-funded children's services in Georgia, but not to others. Current conversion therapy bills prohibit all anti-gay counseling, regardless of individual desire.

Bills banning all anti-gay counseling are patently unconstitutional, and should be defeated.

"The UMCH has agreed that it will follow professional standards of care in dealing with children who 'present issues regarding sexual orientation and gender identity,' and that it will not subject children to 'psychological or religious conversion therapies¹ to alter their sexual orientation or gender identity."

– "Settlement of the Bellmore Litigation," Analysis by Professors of Law Lupu & Tuttle, George Washington University

The September 29, 2003 *Bellmore v. UMCH* Settlement Agreement included an Exhibit from DHR Commissioner Jim Martin and the DHR. Results on State law and policy are as follows:

TERMS TO APPLY TO CHILD WELFARE PROVIDERS IN GEORGIA

Applicability. Terms of the settlement apply to child welfare agencies, child caring institutions and child-placing institutions as defined in Georgia Code Section 49-5-3.

Georgia Code **Section 49-5-3 lists 17 categories** of services affected by this agreement, including a private residence operated by anyone paid to supervise and care for three to six children. If past history is an indication of things to come, regulations apply to private day-care providers who do not contract with DHR but receive payment for child care from anyone receiving government assistance.

Religious participation cannot be mandatory. Under no circumstances shall participation in religious activities be required in any way or be a condition of involvement in religious services or programs. All services provided by contract with DHR, including individual foster parents, child welfare agencies, child caring institutions and child-placing institutions shall be performed without discrimination or harassment based upon a child's religion, religious beliefs, race, color, national origin, age, disability, creed, political affiliation, gender, sexual orientation, or HIV/AIDS status. (This forbids teaching or mentioning biblical morality.)

Harassment is not defined and may be charged against anyone giving minors data about the dangers of alternate lifestyles, since Lambda claims the agreement prohibits "anti-homosexuality indoctrination."

Job screening. No child welfare agency, child caring institution and child-placing institution contracting with DHR shall discriminate in employment, with respect to paid, unpaid, volunteer or intern staff, on the basis of religion, religious beliefs, race, color, national origin, age, disability, or gender. Religion may be considered in the hiring or appointment of any positions serving a primarily spiritual, ministerial, or religious purpose.

Non-religion-specific jobs must be filled without consideration of belief. Non-religion-specific jobs include day-care, office and security personnel, bus drivers, dieticians, cafeteria workers, counselors and teachers.

DHR policy controls paid or unpaid providers. All child welfare agencies, child caring institutions and child-placing institutions contracting with DHR must notify staff (paid, unpaid, volunteer or intern, or consultants) and foster parents caring for children in state custody that they must agree to read and abide by all relevant DHR policies and procedures.

Contractors must describe spiritual/non-spiritual jobs. Child welfare agencies, child caring institutions and child-placing institutions contracted with DHR must maintain on file with DHR current financial statements, employment application forms; a list of all staff positions serving a primarily spiritual, ministerial or religious purpose for which exemption is claimed under paragraph four; and any other records DHR requires, to prove compliance with this agreement.

¹ Conversion or reparative therapy is treatment that aims to change sexual orientation from homosexual to heterosexual.

Congressman Lieu, Courts & White House Oppose Anti-Gay Counseling

Bill Banning Anti-Gay Counseling introduced in Congress

May 19, 2015, Congressman Ted Lieu (D-CA-33) introduced H.R. 2450, the Therapeutic Fraud Prevention Act now in the Commerce, Manufacturing, & Trade Subcommittee. Passage would:

Prohibit therapy to change sexual orientation or gender identity in exchange for money.

Prohibit advertisements claiming such therapy will change or eliminate sexual orientation or gender identity, or that claim to be harmless and without risk.

Support and affirm (1) gender transition therapy or (2) sexual orientation-neutral therapy.

Authorize the Federal Trade Commission to enforce and deem violations unfair or deceptive.

ACTION – Oppose H.R. 2450. Contact Commerce, Manufacturing & Trade Subcommittee Republican members: Call toll-free at 1 877 762-8762 and ask to speak with each representative: Subcommittee Ch. Mike Burgess, TX; Leonard Lance, V-Ch., N.J.; Blackburn, TN; Harper, MS; Guthrie, KY; Olson, TX; Pompeo, KS; Kinzinger, IL; Bilirakis, FL; Brooks, IN; Mullin, OK; Upton, MI (ex officio). Please contact several members, although no Georgian is on this subcommittee.

Court Decisions Uphold Ban on Anti-Gay Counseling

Licensed professionals in California *cannot* use conversion therapy on minors, even if they want it. California was first to ban anti-gay counseling when Governor Jerry Brown signed SB 1172 into law September 19, 2012. The Ninth Circuit Court of Appeals upheld the ban; the U.S. Supreme Court denied review; a subsequent appeal lost; and the ban was affirmed.

The California law says professional therapists and counselors who use treatments designed to eliminate or reduce same-sex attractions in patients would be deemed unprofessional and subject to discipline by the state licensing board. **Treatment is prohibited for patients under 18 (even those requesting it).** S.B. 1172 does not mention pastors and lay counselors who provide such therapy through church programs.

New Jersey introduced two bills (A 3371, S 2278) October 15, 2012 to ban conversion therapy. Both passed and Governor Chris Christie signed them into law August 19, 2013. The U.S. District Court of New Jersey upheld the law as constitutional, as did the Third Circuit Court of Appeals. A petition for certiorari to the U.S. Supreme Court was filed December 3, 2014.

New Jersey Superior Court Judge Peter Barsio, Jr. ruled in February 2015 that advertising a service that could change a person's sexuality is fraudulent and violates the state's consumer protection laws. That first-of-its-kind case was closely watched, and in June 2015 the same court ruled in a subsequent case that Jews Offering New Alternatives for Healing (JONAH) violated New Jersey's Consumer Fraud Protection Act by marketing conversion therapy and ordered them to pay \$72,400 in damages, plus attorney's fees. The judge has not yet ruled on whether to cancel JONAH's business license.

But no conflicting testimony was allowed to be introduced in the JONAH case. Judge Barsio, who previously ruled that proponents of "ex-gay" therapy would not be allowed to testify as expert witnesses, explained: "The theory that homosexuality is a disorder is not novel but – like the notion that the earth is flat and the sun revolves around it – instead is outdated and refuted."

White House Announces Support for Ban on Anti-Gay Counseling

Through an April 8, 2015 post on the White House website, President Obama's senior advisor Valerie Jarrett explained the administration's opposition to conversion therapy as follows:

- (a) The administration wants to end all psychiatric treatment intended to "cure" gay minors;
- (b) The administration denounces conversion therapy as having "potentially devastating effects on the lives of transgender as well as gay, lesbian, bisexual, and queer youth;" and
- (c) The administration calls for a total ban on conversion therapy for minors.

Christian Volunteers Banned from Kentucky Juvenile Justice System

Kentucky Department of Juvenile Justice (DJJ) says pastors cannot call homosexuality “sinful” or “disordered” when addressing minors in the justice system. In a letter dated July 17, 2015, Christian minister David Wells was informed that his volunteer status was revoked and he was barred from the Warren County facility unless he signed a statement that homosexuality is not “sinful.” The letter referenced the Kentucky Sexual Orientation and Gender Identity policy.

When contacted by Pastor Wells, Liberty Counsel responded to DJJ with a five-page letter that explained the issue as follows: “By restricting speech which volunteers are allowed to use while ministering to youth detainees, the State of Kentucky and the Kentucky Department of Juvenile Justice have violated the protections given to private speech through the First Amendment and the Kentucky Constitution. Policy 912 requires affirmation of homosexuality as a condition of providing spiritual guidance to troubled youth and singles out a particular theological viewpoint as expressly disfavored by the State of Kentucky. This the State cannot do.”

The letter, also, demanded reinstatement of Mr. Wells and other volunteer ministers, reversal of DJJ’s unconstitutional discrimination, and explained that the Kentucky policy equating the teaching of biblical morality with “derogatory,” “biased” and “hateful” speech creates an unconstitutional religious litmus test for access to minors in the DJJ.

The superintendent told Mr. Wells, “You can give a scripture reference to the kids, and let them look it up, but you can’t read it in their hearing. You can’t say ‘sinful;’ you can’t discuss sexual orientation – heterosexual or homosexual – period.” Then, somewhat apologetically, the superintendent said, “I’m just doing what the state is telling me to do.”

APA Defines “Transgender” & “Transsexual”

The current focus is no longer cross-dressing or transvestitism, but “transgender,” an umbrella term the American Psychiatric Association (APA) uses for those whose gender identity, gender expression or behavior does not conform to typical associations of biological sexual identity. APA says gender (a) *identity* refers to an internal sense of being male, female or “something else;” gender (b) *expression* refers to outward *communication* of gender identity by behavior, clothing, hairstyle, or voice or body characteristics. (c) “*Trans*” is shorthand for transgender.

“Transsexual,” is another term for those whose gender identity is different from their biological sex identity – male or female may present as the opposite sex or something else. Transsexuals (a) may change their appearance or sexual expression or (b) may alter their bodies medically or surgically; formerly known as sex or gender reassignment, now known as “gender affirmation.”

Q & A from Caddell Associates Poll

~If a Christian wedding photographer with deeply held religious beliefs about marriage is asked to take pictures at a same-sex wedding, should the photographer have the freedom to refuse?

Answers: YES, 82 %; NO, 10 %; DON’T KNOW, 8 %

~More than two thirds (68 %) disagreed (51 % strongly disagreed) that the federal and state government should be able to require by law a private citizen to provide a service or their property for an event that is contrary to their religious beliefs. Only 18% said government should control.

~When asked whether the federal government should determine what constitutes legitimate religious beliefs, only 11 % agreed and a massive 79 % disagreed, including 2/3 on the “left.”

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