

No. 24-539

IN THE
Supreme Court of the United States

KATHY CHILES

Petitioner,

v.

PATTY SALAZAR, IN HER OFFICIAL CAPACITY AS EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES, *et al.*,

Respondents.

**On Writ of Certiorari to the United States Court
of Appeals for the Tenth Circuit.**

**BRIEF OF THE TREVOR PROJECT, INC.,
AMERICAN FOUNDATION FOR SUICIDE
PREVENTION, AND NATIONAL ALLIANCE ON
MENTAL ILLNESS AS *AMICI CURIAE*
IN SUPPORT OF RESPONDENTS**

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INTEREST OF *AMICI CURIAE*¹

The Trevor Project, Inc., the American Foundation for Suicide Prevention (“AFSP”), and the National Alliance on Mental Illness (“NAMI”) respectfully submit this brief to summarize the overwhelming evidence linking conversion therapy to a significantly heightened risk of suicidality and other serious harms to youth. *Amici* advocate to end conversion therapy through democratic processes.

The Trevor Project is the nation’s leading crisis-intervention and suicide-prevention organization dedicated to serving lesbian, gay, bisexual, transgender, queer, and questioning (“LGBTQ”) youth. The Trevor Project offers the only nationwide accredited, free, and confidential phone, instant message, and text messaging crisis-intervention services for LGBTQ youth. Tens of thousands of youth use these services each month. By analyzing and evaluating aggregate data and individual narratives obtained through these services and national surveys the organization conducts, it produces innovative research with clinical implications for issues affecting LGBTQ youth. The Trevor Project works firsthand with LGBTQ youth who have been subjected to conversion therapy.

AFSP is the nation’s leading suicide-prevention organization dedicated to saving lives and bringing hope to those affected by suicide. To advance its mission, AFSP educates the public about mental health

¹ This brief was not authored in any part by counsel for any party, and no person or entity other than *amici* or their counsel made a monetary contribution intended to fund the preparation or submission of this brief.

and suicide prevention, funds research on LGBTQ experiences and suicide risk (among other subjects), champions public policies that improve mental health and reduce suicide risk within LGBTQ populations, and supports survivors of suicide loss and those affected by suicide.

NAMI is the nation's largest grassroots mental-health organization dedicated to building better lives for millions of Americans affected by mental illness. NAMI provides advocacy, education, support, and public awareness so all individuals and families affected by mental illness can build better lives. NAMI envisions a world where all people affected by mental illness, including LGBTQ people, live healthy, fulfilling lives supported by a community that cares.

INTRODUCTION AND SUMMARY OF ARGUMENT

Colorado's Minor Conversion Therapy Law ("MCTL"), H.B. 19-1129, 72nd Gen. Assemb., Reg. Sess. (Colo. 2019), prohibits licensed therapists from attempting to change a minor's sexual orientation or gender identity, a practice known as conversion therapy. As demonstrated by the extensive research and experience of *Amici* in working directly with LGBTQ youth nationwide, these practices are scientifically discredited, ineffective, and affirmatively harmful to LGBTQ youth. The Trevor Project's nationwide research and crisis support data consistently show that conversion therapy contributes to severe mental health outcomes, including increased risks of depression, anxiety, and suicidal ideation. Conversion ther-

apy also fractures family relationships, estranges children from parents, and undermines public trust in licensed mental health professionals.

In enacting the MCTL, Colorado exercised its traditional state authorities to protect the health and safety of children and to regulate the professional conduct of licensed medical providers. Colorado's authority and compelling interests in protecting minors, and in regulating unsafe medical treatments on youth by setting appropriate standards of care for licensed professionals (not ordinary citizens or religious advisors), are well settled. After reviewing evidence from both supporters and opponents, the legislature determined the harms arising from conversion therapy warranted limited regulation of licensed professionals treating minors.

Petitioner argues there is an ongoing debate about the efficacy and safety of conversion therapy treatments. But for decades, "[e]very major medical and mental[-]health organization has uniformly rejected aversive and non-aversive conversion therapy as unsafe and inefficacious." *Tingley v. Ferguson*, 47 F.4th 1055, 1078 (9th Cir. 2022), *cert. denied*, 144 S. Ct. 33 (2023). That medical consensus rests on extensive, empirical, evidence-based, and rigorous peer-reviewed studies demonstrating LGBTQ youth subjected to conversion therapy face a significantly heightened risk of suicide attempts, as well as other harms like depression and anxiety. The authorities on which Petitioner relies do not rebut this consensus. The papers either agree conversion therapy is harmful, are methodologically flawed, or concern another topic altogether.

Regardless, any scientific debate about the well-documented harms of conversion therapy should be resolved by the democratic process, not courts. *United States v. Skrmetti*, 145 S. Ct. 1816, 1837 (2025) (the Court should “leave questions regarding [healthcare] policy to the people, their elected representatives, and the democratic process”); see also *Personnel Administrator of Massachusetts v. Feeney*, 442 U.S. 256, 272 (1979) (“The calculus of effects, the manner in which a particular law reverberates in a society, is a legislative and not a judicial responsibility.”). The Court “afford[s] States wide discretion to pass legislation in areas where there is medical and scientific uncertainty.” *Skrmetti*, 145 S. Ct. at 1836 (cleaned up). That is precisely what happened here. Following a legislative debate, the Colorado legislature—like the legislatures of 22 other states, plus the District of Columbia, over 100 municipalities, and the executive and administrative actions of an additional 5 states and Puerto Rico—enacted the MCTL, a bipartisan law prohibiting conversion therapy to address the documented harms of the practice, including heightened risks of suicide and depression in LGBTQ minors.

Colorado’s law represents a constitutionally sound exercise of the state’s well-established authority to regulate the conduct of licensed professionals to protect public health and safeguard vulnerable minors. Grounded in a robust legislative process and consistent with over a century of this Court’s precedent, the law targets discredited and harmful practices while preserving space for therapeutic dialogue. It is appropriately tailored to advance a compelling state interest in protecting children from demonstrable and devastating harm. That the regulated conduct

involves speech does not place it beyond the reach of reasonable professional regulation. The Court should uphold Colorado’s law as a valid and necessary exercise of state power and affirm the Tenth Circuit’s judgment.

ARGUMENT

Colorado’s MCTL advances the important interest of protecting minors from significant harms associated with conversion therapy by licensed professionals. The MCTL defines conversion therapy—in a limited and tailored fashion—as “any practice or treatment . . . that attempts or purports to change an individual’s sexual orientation or gender identity, including efforts to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attraction or feelings toward individuals of the same sex.” Colo. Rev. Stat. § 12-240-104(5.5)(a); § 12-245-202(3.5)(a). The MCTL regulates professional conduct by prohibiting only licensed, registered, or certified practitioners from using conversion therapy on minors when offering professional services in a clinical setting. *Id.* § 12-245-224(1)(t)(V); § 12-240-121(1)(ee). The law exempts therapy involving the “facilitation of . . . identity exploration and development” and “[a]ssistance to a person undergoing gender transition.” *Id.* § 12-240-104(5.5)(b)(I), (II). Colorado’s ban on conversion therapy for youth addresses a separate issue from medical care for transgender people involving puberty blockers, hormones, and surgeries that was at issue in *Skrmetti*, 145 S. Ct. at 1824.

The public health research and real-world experience of *Amici* support Colorado’s approach. The Trevor Project’s data from years of engagement with

LGBTQ youth confirms the harms resulting from licensed mental-health providers' subjecting minor patients to conversion therapy. Moreover, an ever-growing body of rigorous, peer-reviewed studies spanning decades shows that conversion therapy is closely correlated with an elevated risk of suicide attempts in minors and other serious harms. The MCTL is an appropriate exercise of the state's power to regulate medical treatment by licensed professionals under the baseline principle that a treatment "is unsafe if its potential for inflicting death or physical injury is not offset by the possibility of therapeutic benefit." *United States v. Rutherford*, 442 U.S. 544, 556 (1979).

I. The Trevor Project's Data and Experience Confirm That Conversion Therapy Delivered Under the Guise of Professional Care Is Dangerous and Causes Significant Harm to LGBTQ Youth.

The Trevor Project—the only accredited, free, twenty-four-hour suicide and crisis intervention lifeline for LGBTQ youth—serves nearly half a million contacts each year. LGBTQ youth can call The Trevor Project's nationwide telephone helpline, TrevorLifeLine, for counseling in times of stress and trouble.² LGBTQ youth can also use TrevorChat and TrevorText, online chat and text messaging services, as alternatives to speaking on the telephone.³ Until July 2025, The Trevor Project was also the lead organization serving the National Suicide Prevention Lifeline ("988") LGBTQ youth specialized services, which responded to approximately 70,000 contacts a month. It

² The Trevor Project, *We're here for you*, bit.ly/4oOAvBr.

³ *Ibid.*

also hosts a social networking site, TrevorSpace, that allows LGBTQ youth to connect for peer support.⁴ The Trevor Project provides comprehensive training for volunteers who serve as counselors or moderators on its platforms so they are prepared to help LGBTQ youth facing difficulties and, if necessary, refer them to resources for additional help.

The Trevor Project collects anonymized data based on its communications with youth, including about their experiences undergoing or being threatened with conversion therapy. Supervisors for The Trevor Project's crisis services report that conversion-therapy-related issues come up regularly, as often as weekly. These impressions are borne out by data collected on TrevorLifeline, TrevorText, and TrevorChat, as many individuals have reached out with specific concerns about conversion therapy. The Trevor Project also conducts national surveys on these issues. The Trevor Project's crisis response data, national surveys, and peer-reviewed research consistently demonstrate that conversion therapy poses a serious threat to LGBTQ youth.

A. The Trevor Project's Crisis and Suicide-Prevention Service Data Reveal the Harmful Impact of Conversion Therapy.

Many LGBTQ youth who contact The Trevor Project in crisis describe concerns or fears associated with conversion therapy.⁵ Since August, 2024, youth from

⁴ The Trevor Project, *TrevorSpace*, <http://bit.ly/4lHtNuk>.

⁵ The information in this section is derived from unpublished, anonymized data that The Trevor Project collected, compiled, and reviewed from its platforms. To protect the privacy of its users, it does not disclose the identities of these youth.

40 states or territories, and more than 100 different cities and towns, raised the issue of conversion therapy in over 650 conversations with The Trevor Project. In 2022, youth from 49 states or territories, and more than 500 different cities and towns, raised the issue of conversion therapy in over 1,200 conversations with The Trevor Project. According to data-tracking tools, youth have used terms like “conversion therapy,” “reparative therapy,” and “ex-gay” hundreds of times while using The Trevor Project’s communication platforms. Transgender and nonbinary youth were twice as likely to mention conversion therapy compared to other youth. Youth who raised conversion therapy with The Trevor Project in 2022 were more than twice as likely to report suicidal ideation than their peers.

LGBTQ youth describe their difficult experiences with conversion therapy in various ways. For many, conversion therapy is a source of deep anxiety. Some LGBTQ individuals contact The Trevor Project afraid because their families are threatening them with conversion therapy. Others are frightened that their families will force them into conversion therapy if they come out. Some youth report this fear is reinforced by derogatory remarks by family—for instance, that being LGBTQ is “a choice” or “demonic,” or that conversion therapy is necessary to “fix” them. Other youth contact The Trevor Project because they are in conversion therapy, it is harming rather than helping them, and their feelings of isolation and failure contribute to suicidal thoughts and behaviors.

The harm conversion therapy causes is not limited to the youth subjected to it. Conversion therapy pro-

foundly undermines and disrupts family relationships, often causing deep tension, emotional distance, and separation between parents and their children. Conversion therapy often seeks to attribute a supposed “cause” to a patient’s gender identity or same-sex attraction, inviting unwarranted blame and reinforcing harmful misconceptions. Many youth subjected to conversion therapy report being told by the professional treating them that their identity stems from parental shortcomings or family trauma, which inflicts harm on the patient and fractures the family.

Some LGBTQ youth who contacted The Trevor Project explained that, after coming out to their parents as LGBTQ, their unaccepting family members threatened to sever contact and support unless they agreed to conversion therapy. Others have been estranged from family, with the restoration of relationships conditioned on consent to conversion therapy. Individuals reported that family rejection caused distress and led them to believe that conversion therapy might be their “only” alternative. LGBTQ youth also regularly reach out to The Trevor Project out of concern for loved ones undergoing conversion therapy, and some shared the trauma of losing someone to suicide during or after such treatment.

Accounts collected by The Trevor Project illustrate the deep pain and trauma conversion therapy can cause:⁶

- “[F]or six months, I sat in a room with a therapist where the goal was to help me see . . . what

⁶ The information in this paragraph is derived from information that The Trevor Project collected from volunteers and members of the public for educational purposes.

the problem was with who I was attracted to and what I wanted in life . . . [T]hat was really scarring and very difficult. . . . I think conversion therapy is dangerous because it takes something inherent in who a person is and tells them . . . that's wrong and it needs to be fixed. . . . I didn't choose to be attracted to men. It's just a part of who I am. And yet I had to sit in a room with someone whose goal was to tell me this is wrong and it needs to be undone. And they created mental health impact on me."

- "I was in conversion therapy for five years of my early childhood, between the ages of 5–10. And I didn't know that was conversion therapy. I didn't have that language at the time. . . . It wasn't until I was about 14–15 when I realized that I was a survivor of conversion therapy . . . And so I think it's been a process for me to . . . heal, as I move through depression, and rage, and doubt, and denial, and so much confusion. I'm still healing from that and so much more. . . . And I don't ever know if there will be a moment that it just suddenly miraculously, poof, disappears, but it's a daily struggle. . . . I've struggled with suicide since I was seven or eight, in the deepest, darkest moments of conversion therapy."
- "[S]o we even developed a fund from our church to send people to conversion therapy, hoping they'll change. And through the course of time, I realized that people weren't changing. . . . And in fact, [] we're not only seeing people not change, but people are actually getting worse. We saw like noticeable increase[s] [in] people's

depression and suicidal ideation and people . . . doing self-harm. . . . I remember one conversation I had with a friend who confided to me that she was lesbian. . . . And she, like, pointed to a man that was sitting close by and she said [], imagine if I told you to look at that man and somehow figure out how to be attracted to him. . . . And I remember, like when she [] kind of illustrate[d] for me how impossible the situation was and made me realize, well, we're asking people to do something that is beyond people's capabilities of who they are."⁷

B. The Trevor Project's National Surveys and Peer-Reviewed Research Reveal Conversion Therapy as a Critical Driver of Elevated Anxiety, Depression, and Suicidality Among LGBTQ Youth.

The Trevor Project conducts annual, quantitative, cross-sectional national surveys of LGBTQ youth with representation from all 50 states and the District of Columbia concerning the mental health of LGBTQ youth. The content and methodology of The Trevor Project's national surveys are subject to review and approval by an independent, institutional review board. A quantitative cross-sectional design is used to collect data through an online survey platform. Qualified respondents complete a secure online questionnaire that includes a maximum of 143 questions offered in English or Spanish. Questions on considering and attempting suicide in the previous year are taken from the Centers for Disease Control and Prevention's

⁷ See also The Trevor Project, *Learn With Love: Episode 1*, YouTube (Jan. 31, 2023), <http://bit.ly/4mzIn8k>.

(“CDC”) Youth Risk Behavior Survey to allow for comparisons to the CDC’s nationally-representative sample. Each year since 2019, the survey has included questions about conversion therapy.

The Trevor Project documented the harmful impacts of conversion therapy in a 2020 peer-reviewed article, reporting that LGBTQ youth who underwent conversion therapy were “more than twice as likely to report having attempted suicide” and more than two times as likely to report multiple suicide attempts in the past year compared to those who did not.⁸ Nearly half of the respondents who underwent conversion therapy (44%) attempted suicide at least once in the prior year, compared to just 17% of those who had not undergone it.⁹ The research covered in the article demonstrated that exposure to conversion therapy is “strongly associated with suicidality outcomes,” and it severely and disproportionately impacts younger LGBTQ people, across multiple racial/ethnic demographics.¹⁰

In May 2024, The Trevor Project released the results of its nationwide survey of more than 18,500 LGBTQ individuals between the ages of 13 and 24.¹¹ Thirteen percent of LGBTQ young people reported being threatened with or subjected to conversion therapy (8% were threatened with conversion therapy and

⁸ Amy E. Green et al., *Self-Reported Conversion Efforts and Suicidality Among US LGBTQ Youths and Young Adults*, 2018, 110 Am. J. Pub. Health 1221, 1221–1223 (2020).

⁹ *Id.* at 1225, Table 2.

¹⁰ *Id.* at 1221, Table 3.

¹¹ The Trevor Project, *2024 U.S. National Survey on the Mental Health of LGBTQ+ Young People* 1, 31 (May 2024), <http://bit.ly/45S0b7C> [hereinafter “2024 National Survey”].

5% were subjected to it), including approximately one in six transgender and nonbinary young people (16%) and nearly one in ten young people who are not transgender or nonbinary (9%).¹² The survey demonstrates that exposure to conversion therapy is a significant risk factor for suicidality. Among those subjected to or threatened with conversion therapy, 27% reported attempting suicide in the prior 12 months.¹³ These respondents attempted suicide at three times the rate of LGBTQ peers not subjected to or threatened with conversion therapy (27% vs. 9%).¹⁴ These practices often target youth at a vulnerable age; the average age at which respondents reported first being subjected to conversion therapy was just 13.¹⁵

The 2024 survey also documented other significant harms from conversion therapy. Among respondents subjected to or threatened with conversion therapy, 56.6% reported considering suicide in the past year, 75.6% experienced recent anxiety, and 65.2% experienced recent depression.¹⁶

These effects were even more severe for transgender and nonbinary youth who were subjected to or threatened with conversion therapy. These youth reported significantly higher rates of anxiety (79.7% vs. 66.1%), depression (68.8% vs. 56.9%), suicidal ideation (61% vs. 45.2%), and suicide attempts

¹² *Id.* at 17.

¹³ *Id.* at 19.

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ This information is derived from anonymized unpublished data that The Trevor Project collected, compiled, and reviewed as part of its 2024 National Survey.

(29.2% vs. 21.1%) in the past year compared to peers who are not transgender or nonbinary.¹⁷

The 2024 Survey's findings reinforce research conducted by The Trevor Project in prior years. In May 2023, The Trevor Project released the results of a nationwide survey of over 28,000 LGBTQ individuals between the ages of 13 and 24.¹⁸ Among respondents subjected to or threatened with conversion therapy, 28% reported attempting suicide in the past year—more than twice the rate of LGBTQ peers who did not report undergoing or being threatened with conversion therapy (11%).¹⁹

The Trevor Project's nationwide survey released in May 2022 included responses from nearly 34,000 LGBTQ individuals between the ages of 13 and 24.²⁰ Among those subjected to conversion therapy, 28% reported attempting suicide in the past year.²¹ Likewise, among those threatened with conversion therapy, 27% reported attempting suicide in the past year—more than twice the rate of LGBTQ peers who did not report undergoing or being threatened with conversion therapy (11%).²²

The Trevor Project's 2020 and 2021 nationwide surveys of a combined total of nearly 75,000 LGBTQ youth ages 13 to 24 found that those who underwent

¹⁷ 2024 National Survey.

¹⁸ The Trevor Project, *2023 U.S. National Survey on the Mental Health of LGBTQ Young People* 3 (May 2023), <http://bit.ly/41UmkAT>.

¹⁹ *Id.* at 20.

²⁰ The Trevor Project, *2022 National Survey on LGBTQ Youth Mental Health* 3 (May 2022), <http://bit.ly/4n0Dyow>.

²¹ *Id.* at 19.

²² *Ibid.*

conversion therapy were more than twice as likely to report a suicide attempt in the past year compared to peers who had not (27% and 28% vs. 12%, respectively).²³

The Trevor Project's 2019 nationwide survey with over 34,000 LGBTQ individuals between the ages of 13 and 24 shows the devastating impacts of conversion therapy.²⁴ Forty-two percent of LGBTQ youth who underwent conversion therapy reported attempting suicide in the past year,²⁵ which is more than twice the rate of their LGBTQ peers who did not report undergoing conversion therapy (17%).²⁶ The highest rate of attempted suicide (57%) was among transgender and nonbinary individuals who were subjected to conversion therapy.²⁷

C. The Trevor Project's Data Is Consistent with Decades of Research on the Harms of Conversion Therapy.

Decades of peer-reviewed, retrospective, and case-controlled studies confirm that conversion therapy inflicts serious harms upon LGBTQ people, especially youth.²⁸ Recent data shows: "Around 27 percent of

²³ The Trevor Project, *National Survey on LGBTQ Youth Mental Health 2021* 12, 17 (2021), <http://bit.ly/4657JoA>; The Trevor Project, *National Survey on LGBTQ Youth Mental Health 2020* 6, 13 (2020), <http://bit.ly/4fQ3FvZ>.

²⁴ The Trevor Project, *National Survey on LGBTQ Youth Mental Health* 1 (June 2019), <http://bit.ly/41jbpAD>.

²⁵ *Id.* at 3.

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ See Amy Przeworski et al., *A systematic review of the efficacy, harmful effects, and ethical issues related to sexual orientation*

U.S. LGBTQ youth who had experienced conversion therapy had attempted suicide within the previous [year] as of 2023, compared to [9%] of LGBTQ youth who had not experienced conversion therapy.”²⁹ A 2023 study found that transgender adolescents subjected to conversion therapy faced a 55% higher risk of attempting suicide, with the most severe effects observed among youth aged 11 to 14.³⁰

Conversion therapy harms LGBTQ youth “by invoking feelings of rejection, guilt, confusion, and shame, which in turn can contribute to decreased self-esteem, substance abuse, social withdrawal, depression, and anxiety.”³¹ Accordingly, “[n]o available research supports the claim that” conversion therapy efforts “are beneficial to children, adolescents, or families.”³² A 2023 SAMHSA report explains that conversion therapy is a “dangerous, discredited, and ineffec-

change efforts, Clinical Psychol.: Sci. & Prac. 1, 1 (2020), <http://bit.ly/4mQgKYk>; see also Am. Ass’n of Suicidology, *Suicidal Behavior Among Lesbian, Gay, Bisexual, and Transgender Youth Fact Sheet* 1 (2019), <http://bit.ly/47bgv5B> (“[Y]outh who have undergone conversion therapy [are] more than twice as likely to attempt suicide as those who did not[.]”).

²⁹ Statista Rsch. Dep’t, *U.S. LGBTQ youth who experienced conversion therapy and attempted suicide 2023*, Statista (July 2, 2024), <http://bit.ly/4fQZLam>.

³⁰ Travis Campbell & Yana van der Meulen Rodgers, *Conversion therapy, suicidality, and running away: An analysis of transgender youth in the U.S.*, 89 J. Health Econ. 1, 2 (2023), <http://bit.ly/4oL3Lcl>.

³¹ See AFSP *infra* note 39 at 2.

³² Substance Abuse & Mental Health Servs. Admin. (“SAMHSA”), *Moving Beyond Change Efforts: Evidence and Action to Support and Affirm LGBTQI+ Youth* 9 (2023), <http://bit.ly/476F5Vj>.

tive” practice linked to “significant harms such as increased risk of suicidality and suicide attempts, as well as . . . severe psychological distress and depression.”³³ SAMHSA’s report notes that, in light of these risks, “every major medical, psychiatric, psychological, and professional mental[-]health organization has taken measures to end sexual orientation change efforts and gender identity change efforts.”³⁴

Consistent with this, major medical and mental-health organizations have uniformly rejected conversion therapy as unsafe for minors and devoid of scientific merit.³⁵ *Amicus* AFSP, the leading volunteer organization giving those affected by suicide a nationwide community, “stands with the research, clinical expertise, and expert consensus . . . in opposing the practice of conversion therapy” and “urges states to . . . protect LGBTQ youth by banning the discredited practice.”³⁶ *Amicus* NAMI, the nation’s largest grassroots mental-health organization, “supports public policies and laws to ban the discredited, discriminatory, and harmful practice of conversion therapy” because “no one should be subject to practices

³³ *Id.* at 8.

³⁴ *Id.* at 30.

³⁵ Am. Med. Ass’n, *Sexual orientation and gender identity change efforts (so-called “conversion therapy”)* 3 (2022), <http://bit.ly/3Vdw6dw> (“All leading professional medical and mental health associations reject ‘conversion therapy’ as a legitimate medical treatment.”).

³⁶ AFSP, *LGBTQ Individuals & Populations* (2025), <http://bit.ly/4mnnGMK>.

that can cause or worsen mental[-]health symptoms.”³⁷ The APA, the leading professional organization for psychologists, has opposed conversion therapy for decades.³⁸ And the American Medical Association, the American Psychiatric Association, the American Academy of Pediatrics, the American Counseling Association, the American Psychoanalytic Association, the American College of Physicians, the American School Counselor Association, the National Association of Social Workers, the American Academy of Nursing, the American Academy of Child and Adolescent Psychiatry, and the American Academy of Family Physicians have all denounced conversion therapy.³⁹ The consensus is clear: conversion therapy “put[s] individuals at significant risk of harm,”⁴⁰ and cannot

³⁷ NAMI, *Conversion Therapy: Where We Stand*, (2020), <http://bit.ly/4oOAgX5>.

³⁸ Am. Psychol. Ass’n, *Report of the American Psychological Association Task Force on Appropriate Therapeutic Responses to Sexual Orientation* 4, 6 (2009), <http://bit.ly/45HE4AE>; Przeworski, *supra* note 28, at 17 (citations omitted).

³⁹ See U.S. Joint Statement, *United States Joint Statement Against Conversion Efforts* (2023), <http://bit.ly/45zmTm8>; Am. Psychol. Ass’n, *Just the Facts About Sexual Orientation and Youth* 6–9 (2008), <http://bit.ly/4fTlIBx>; Am. Med. Ass’n, *Health Care Needs of Lesbian, Gay, Bisexual, Transgender and Queer Populations H-160.991* § 1(c), <http://bit.ly/4n0l2N1>; Am. Acad. of Nursing, *American Academy of Nursing Position Statement on Reparative Therapy*, 63 *Nursing Outlook* 368, 368–369 (2015), available at <http://bit.ly/4mvOPNK>; AFSP, *Policy Priority: LGBTQ Individuals & Communities* 3–5, 9 (2024), <http://bit.ly/4mwG7i0>; Am. Found. for Suicide Prevention, *Recent Legislation Targeting the Rights of Trans Individuals Deepens Concerns Around the Mental Health of LGBTQ Communities: Leading suicide prevention organization strongly opposes bills that can harm the mental health and wellbeing of LGBTQ people* (Apr. 26, 2023), <http://bit.ly/4mxhDp3>.

⁴⁰ See U.S. Joint Statement, *supra* note 39.

“cure” someone of their sexual orientation, gender identity, or gender expression.⁴¹ Indeed, there is nothing to “cure.”⁴²

D. The Trevor Project’s Surveys Demonstrate That Fear of Conversion Therapy Prevents Many LGBTQ Youth from Seeking Help.

Access to supportive mental-health professionals is a key concern for LGBTQ youth experiencing mental-health issues including anxiety, depression, or suicidality. Fear of conversion therapy is one factor that prevents LGBTQ youth from accessing critical mental-health services they need. The MCTL’s prohibition on conversion therapy empowers boards overseeing mental-health professionals to take appropriate action if a provider violates the MCTL. Colo. Rev. Stat. § 12-245-225; § 12-245-101(2). These regulatory safeguards are critical because a significant number of LGBTQ youth report not seeking mental-health care out of fear that conversion therapy may be embedded in treatment.

Eighty-four percent of LGBTQ youth surveyed in The Trevor Project’s 2024 National Survey indicated a desire for mental-health care.⁴³ Despite this, only 50% of those who wanted such care received it.⁴⁴ A significant number of LGBTQ youth surveyed reported not seeking mental-health support due to a fear of conversion therapy. Just over 23% of LGBTQ youth who are not transgender, and 37% of

⁴¹ See Am. Psychol. Ass’n, *supra* note 39, at 6–9.

⁴² *Ibid.*

⁴³ 2024 National Survey at 9.

⁴⁴ *Ibid.*

transgender youth who wanted mental-health care but refrained from seeking it, identified the fear of being subjected to conversion therapy as a reason for not seeking mental-health support.⁴⁵ The Trevor Project's 2023 national survey likewise showed that 15% of LGBTQ youth who wanted—but did not receive—mental-health care cited fear of conversion therapy as the reason.⁴⁶ LGBTQ youth who identified a fear of conversion therapy as a barrier to seeking mental-health care were significantly more likely to have experienced conversion therapy (11%) or been threatened with it (25%).⁴⁷ They also reported markedly higher rates of anxiety (83%), depression (73%), suicidal ideation (60%), and suicide attempts (22%) compared to peers without such fears (71%, 59%, 42%, and 12%, respectively).⁴⁸ This suggests that LGBTQ youth who need mental-health services are scared to access those exact services because they are worried about being subjected to conversion therapy. By prohibiting conversion therapy by licensed professionals, Colorado created a safer environment for LGBTQ youth to access essential mental-health services.

⁴⁵ This information is derived from anonymized internal data that The Trevor Project collected, compiled, and reviewed as part of its 2024 National Survey.

⁴⁶ This information is derived from anonymized internal data that The Trevor Project collected, compiled, and reviewed as part of its 2023 National Survey.

⁴⁷ *Ibid.*

⁴⁸ *Ibid.*

II. The Colorado Legislature Considered and Balanced Competing Positions on the Harm of Conversion Therapy.

In enacting the MCTL, the Colorado legislature considered extensive testimony before the Senate Committee on State, Veterans, & Military Affairs. This included input from supporters of the bill such as *amicus* AFSP and the Colorado LGBT Bar Association; opponents of the bill such as the Faith and Liberty Coalition and the Catholic Church; and medical experts from organizations like the Office of Behavioral Health at the Colorado Department of Human Services, the Colorado Psychological Association, the Mental Health Center of Denver and the Colorado Behavioral Healthcare Council, and various doctors.⁴⁹ Witnesses against the MCTL argued that there was not a medical consensus around the harms of conversion therapy, and that conversion therapy was not harmful, but instead was helpful, to vulnerable youth.⁵⁰ This wide range of witnesses contributed to the legislature's deliberations by submitting live testimony, memoranda, fact sheets, and other relevant information to the Committee.⁵¹

⁴⁹ See Bill Summary for HB19-1129, Senate Committee on State, Veterans, and Military Affairs (Mar. 18, 2019), *available at* <http://bit.ly/4oL2F0h> (attachments provided to the legislature are referenced as Attachments A, B, C, or D).

⁵⁰ See, *e.g.*, National Taskforce for Therapy Equality, *Attachment C, Fact Sheet presented to Colorado Legislature regarding HB19-1129*, *available at* <http://bit.ly/4ga2kjT>; Matthew Hartley, *Attachment D, Letter from Matthew Hartley re: Opposition to HB 19-1129*, *available at* <http://bit.ly/45xp21E>.

⁵¹ *Supra* note 49.

After receiving this information, the bill’s sponsors made clear in the committee’s deliberations that “all of the prevailing science and modern medicine tells us that not only does this practice not work, but it is not considered therapy in . . . the mainstream sense of what therapy is. In fact there are many reasons to believe that it does the opposite and it actually harms young people.”⁵²

Given the overwhelming evidence, the legislature concluded that, “in order to safeguard the public health, safety, and welfare of the people of [Colorado],” and to protect Coloradans from “the unauthorized . . . and improper application of psychology, social work, . . . psychotherapy . . . it is necessary that the proper regulatory authorities be established and adequately provided for.” Colo. Rev. Stat. § 12-245-101. Upon signing the bill, Governor Polis explained that it “will help so many people in Colorado to make sure that no one can be forced to attend a torturous conversion therapy pseudoscience practice.”⁵³

Given this legislative process, the Tenth Circuit rightly held that the district court properly “made a factual finding that Colorado considered the body of medical evidence . . . before passing the [law]” and “determined the practice of conversion therapy constituted an ‘improper application’ of professional counseling” (a finding Petitioner “d[id] not challenge” at

⁵² *Prohibit Conversion Therapy for A Minor: Hearing on HB 19-1129 Before the Sen. Comm. On State, Veterans, & Military Affairs*, 70th Sess. (2019) (statement of Sen. Stephen Fenberg).

⁵³ Bente Birkeland, *Colorado’s Statewide Conversion Therapy Ban Is Now In Effect*, Colo. Pub. Radio (May 31, 2019) (quoting Gov. Polis), <https://bit.ly/3KLwLgT>.

the Tenth Circuit). *Chiles v. Salazar*, 116 F.4th 1178, 1205–1206 (10th Cir. 2024).

State legislation is entitled to “a strong presumption of validity,” *FCC v. Beach Communications*, 508 U.S. 307, 314 (1993), and the judiciary respects states’ authority to enact legislation even “in areas where there is medical and scientific uncertainty.” *Gonzales v. Carhart*, 550 U.S. 124, 163 (2007). The Court owes deference to legislative findings of fact because legislatures are “far better equipped than the judiciary to amass and evaluate the vast amounts of data bearing upon legislative questions.” *Turner Broad. Sys., Inc. v. FCC*, 520 U.S. 180, 195 (1997) (quotation marks and citation omitted).

Just last Term, this Court confirmed the importance of “leav[ing] questions regarding” “scientific and policy debates” “to the people, their elected representatives, and the democratic process.” *Skrmetti*, 145 S. Ct. at 1837; see also *id.* at 1849 (Thomas, J., Concurring) (the Constitution “reserves to the people, their elected representatives, and the democratic process the power to decide how best to address an area of medical uncertainty and extraordinary importance”) (cleaned up). The Court should “decline [] the plaintiff’s invitation to second-guess the lines that [the law] draws.” *Id.* at 1836; see also *id.* at 1841 (Thomas, J., concurring) (“[I]t is imperative that courts treat state legislation with ‘a strong presumption of validity,’ and in turn protect States’ ability to enact ‘high-stakes medical policies, in which compassion for the child points in both directions.’” (cleaned up)); *id.* at 1852 (Barrett, J., concurring) (“The question of how to regulate a medical condition such as gender dysphoria involves a host of policy judgments

that legislatures, not courts, are best equipped to make.”).

Petitioner contends the legislature unfairly favored one side of the debate. Pet. Br. at 48. But, under this Court’s most recent precedent, once a legislature has duly considered a full range of relevant facts and perspectives, it retains the authority to adopt the policy approach it deems appropriate. See *id.* at 1835–1836; see also *Wollschlaeger v. Governor of Florida*, 848 F.3d 1293 (11th Cir. 2017) (emphasizing need for a legislature to assess evidence, not anecdotal data, when regulating professional speech under heightened scrutiny). The “fact the line might have been drawn differently at some points is a matter for legislative, rather than judicial, consideration.” *Skrmetti*, 145 S. Ct. at 1836 (quoting *Railroad Retirement Bd. v. Fritz*, 397 U.S. 471, 485 (1970)). The Court should reject Petitioner’s request to override the outcome of the democratic process that resolved how best to protect the health of young people.

Nevertheless, the sources Petitioner cites in an attempt to rebut the well-established harms of conversion therapy either are fatally flawed or confirm that the conversion therapy the MCTL forbids is harmful to youth. Taken together, these sources fail to raise substantial questions about the validity of the data on which the Colorado legislature relied and do not provide a basis for the Court to substitute its judgment for that of the legislature.

First, Petitioner relies on an article by D. Paul Sullins to dispute the well-established link between conversion therapy and increased suicidality.⁵⁴ But, as other experts have detailed, the Sullins study suffered from serious methodological flaws. Sullins incorrectly relied on data that did not “indicate the age when a person was first exposed to [conversion therapy],” making it impossible to determine whether “suicide morbidity before or after exposure to [conversion therapy]” changed.⁵⁵ Similarly, Sullins “misrepresented findings on [the] time of [conversion therapy] exposure,” claiming conversion therapy “usually last[s] less than a year,” when data shows “most people who were exposed to [conversion therapy] had multiple and prolonged exposures.”⁵⁶ He also only assessed the suicide morbidity of individuals who had experienced conversion therapy in the previous *year*, even though most survivors “experience [it] at a young age,” and as such “suicide morbidity, if it occurred, would have been more proximal to the initial [] exposure.”⁵⁷ The result artificially constrained the number of suicide

⁵⁴ Br. of Petitioner 15, 46 (citing D. Paul Sullins, *Sexual Orientation Change Efforts Do Not Increase Suicide: Correcting a False Research Narrative*, 51 Archives of Sexual Behavior 3377 (Sept. 2022)).

⁵⁵ Ilan H. Meyer & John R. Blosnich, *Commentary: Absence of Behavioral Harm Following Non-Efficacious Sexual Orientation Change Efforts: A Retrospective Study of United States Sexual Minority Adults, 2016–2018*, 13 Frontiers in Psych. 997513, at 2 (2022).

⁵⁶ *Ibid.*

⁵⁷ *Ibid.*

attempts in the data set.⁵⁸ Finally, Sullins’ article relies on two of his own articles; both have been criticized by peers and one was “retracted” because “two independent external reviews . . . concluded that the methodology, and subsequent statistical analysis, employed by the study cannot support the conclusions around efficacy and effectiveness.”⁵⁹

Second, Petitioner identifies research showing that sexuality is not immutable.⁶⁰ That some people experience changes to the understanding of their sexuality over time does not suggest that conversion therapy is effective. Nonetheless, that same source explains that conversion therapy is “not only ineffective in changing sexual orientation but [is] psychologically damaging, often resulting in elevated rates of depression, anxiety, and suicidality.”⁶¹

⁵⁸ *Ibid.*; see also John R. Blosnich et al., *Correcting a False Research Narrative: A Commentary on Sullins*, 52 Archives of Sexual Behavior 885, 885–887 (2023) (Sullins’ “analyses are predicated on a fabricated classification of temporal order” and are thus “invalid.”).

⁵⁹ D. Paul Sullins, *Absence of behavioral harm following non-efficacious sexual orientation change efforts: A retrospective study of United States sexual minority adults, 2016–2018*, Frontiers in Psych. 13, 823647 (2022), <http://bit.ly/3Jsmn0w> (criticized by Meyer and Blosnich, *supra* note 55); D. Paul Sullins et al., *Efficacy and risk of sexual orientation change efforts: A retrospective analysis of 125 exposed men*, F1000Research, 10, 222 (2021), <http://bit.ly/4p73D7h>.

⁶⁰ Br. of Petitioner at 8 (citing Lisa M. Diamond & Clifford J. Rosky, *Scrutinizing Immutability: Research on Sexual Orientation & U.S. Legal Advocacy for Sexual Minorities*, 53 J. of Sex Research 1, 2 (2016)).

⁶¹ Diamond & Rosky, *supra* note 60, at 8.

Third, the Cass Review, commissioned by England’s National Health Service (“NHS”)—which Petitioner cites for claims about the efficacy of *medical intervention*, a subject entirely outside the purview of Colorado’s law—in fact states that “no LGBTQ+ group should be subjected to conversion practice.”⁶² Indeed, the Cass Review explains that “[n]o formal science-based training in psychotherapy, psychology or psychiatry teaches or advocates conversion therapy,” and that “[i]f an individual were to carry out such practices they would be acting outside of professional guidance, and this would be a matter for the relevant regulator.”⁶³

Finally, Petitioner relies extensively on the May 2025 Department of Health and Human Services report to showcase purported harms of medical treatment for gender dysphoria in children.⁶⁴ That report seeks to distinguish certain psychotherapeutic approaches from conversion therapy,⁶⁵ and otherwise relies on research that does not address conversion therapy or that documents its harms. Setting aside the

⁶² Hilary Cass, *Independent Review of Gender Identity Services for Children and Young People*, NHS 150 (Apr. 2024), <http://bit.ly/3HMyrZR>.

⁶³ *Id.* at 151; see also Chris Noone et al., *Critically Appraising the Cass Report: Methodological Flaws and Unsupported Claims*, BMC Medical Research Methodology 25:128 (2025) (finding “several instances of insufficiently evidenced claims being used to inform its recommendations” and “observ[ing] serious methodological deficiencies with the primary research commissioned by the Cass Review”).

⁶⁴ See U.S. Dep’t of Health & Hum. Servs., *Treatment for Pediatric Gender Dysphoria: Review of Evidence and Best Practices* (2025), <http://bit.ly/41kfu7C>.

⁶⁵ *Id.* at 247–260.

findings of the report, under Colorado’s law “[c]onversion therapy’ does not include” practices that “provide . . . facilitation of an individual’s coping, social support, and identity exploration and development.” Colo. Rev. Stat. § 12-240-104(5.5)(b)(I). See generally *Chiles v. Salazar*, 116 F.4th at 1218 (citing to the SAMHSA report).

The Colorado legislature considered views on both sides, reviewed competing studies and viewpoints, and concluded that the weight of credible evidence supported regulatory action. The subject matters of the studies on which Petitioner relies were all addressed by the legislature,⁶⁶ which considered:

- Studies supporting conversion therapy, noting that they had been withdrawn or debunked. Committee Hearing at 2:34:00; see also *id.* at 2:10:25.
- The magnitude of the suicide problem for LGBTQ youth subjected to conversion therapy. Committee Hearing at 1:15:15, 2:10:25, 2:37:00; see also *id.* at 1:07:00, 1:21:00, 1:45:00; Attach. C at 1–2 (asserting that “[n]o research meeting scientific standards shows [conversion] therapy today is harmful” and that “[f]ailure to treat increases suicides”).⁶⁷
- The contention that sexuality is not immutable, Committee Hearing at 1:24:00, 2:10:25, 2:22:00, 2:34:00; Attach. C at 1 (asserting that

⁶⁶ *Supra* note 49; Colorado General Assembly, *Colorado House Public Health Care & Human Services Committee Hearing*, at 56:40 (Feb. 13, 2019), <http://bit.ly/3UJ1xwm> (“Committee Hearing”).

⁶⁷ *Supra* note 49.

“[a] new study . . . show[s] some people change their sexual attraction and behavior”).⁶⁸

- The issue of “exploratory” therapy. Committee Hearing at 2:18:00 (noting that conversion therapy does *not* include “practices or treatments that provide . . . identity exploration and development.”).
- The distinctions between conversion therapy and other medical treatment, including for gender dysphoria, Attach. D (arguing that law is “contrary to reason” because “[i]t is currently legal in Colorado for a minor to take drugs to try to change their bodies”).⁶⁹

In the end, the legislature concluded that the balance of documented harms supported the need for action to protect LGBTQ youth. The lower courts correctly upheld Colorado’s law.

III. Colorado’s Law Falls Squarely Within the State’s Traditional Authority to Protect Minors by Regulating Medical Treatments and the Standards of Care Offered by Licensed Professionals.

Colorado’s law is the state’s sole legal safeguard prohibiting healthcare practitioners from employing conversion therapy on minors in a clinical context. As such, the law furthers the public’s interest by protecting minors from practices the State determined are dangerous, discredited, and ineffective.

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*

Under this Court’s precedent, Colorado has the power to enact reasonable legislation regulating the professional conduct of medical and other licensed professionals, and to prevent malpractice by establishing and enforcing reasonable regulatory standards for the provision of medical treatments. See *Collins v. Texas*, 223 U.S. 288, 297–298 (1912) (recognizing the “right of the [S]tate to adopt a policy even upon medical matters concerning which there is difference of opinion and dispute”); *Lambert v. Yellowley*, 272 U.S. 581, 596 (1926) (there is “no right to practice medicine which is not subordinate to the police power of the states”); *Goldfarb v. Virginia State Bar*, 421 U.S. 773, 792 (1975) (noting states have a compelling interest in regulating professions to “protect the public health, safety, and other valid interests,” including by “establish[ing] standards for licensing practitioners and regulating the practice of professions”); *Ohralik v. Ohio State Bar Ass’n*, 436 U.S. 447, 460, 464 (1978) (Ohio had a strong interest in regulating conduct of a profession, including “maintaining standards among members of the licensed professions”); *Skrmetti*, 145 S. Ct. at 1845 (Thomas, J., concurring) (“States have a legitimate interest in protecting the integrity and ethics of the medical profession.”) (cleaned up); *Washington v. Glucksberg*, 521 U.S. 702, 731 (1997) (same); *Dent v. West Virginia*, 129 U.S. 114, 122 (1889) (same); *Watson v. Maryland*, 218 U.S. 173, 176 (1910) (same); *Crane v. Johnson*, 242 U.S. 339, 344 (1917) (application to other practitioners).

Colorado has done exactly that: exercised its legislative authority to pass a limited regulation on licensed medical professionals in a clinical context. The law is, as established, reasonable and limited in scope.

It appropriately prohibits therapeutic practices by licensed professionals—not ordinary citizens or religious advisors. It also does not include “practices or treatments” that provide “[a]cceptance, support, and understanding for the facilitation of an individual’s coping.” Colo. Rev. Stat. § 12-245-202(3.5)(b)(I). As such, contrary to Petitioner’s concern, clinicians can facilitate conversations regarding minors’ distresses about their sexuality or gender that may arise during their sessions, as long as the assistance “does not seek to change [the patient’s] sexual orientation or gender identity.” *Ibid.*

Petitioner argues that application of the law to licensed professionals and treatment of minors—but not to other adults who might advise LGBTQ youth or to adults who might elect to participate in conversion therapy—is underinclusive. Pet. Br. at 51–52. But the legislature clearly considered far more than a “reasonably conceivable state of facts that could provide a rational basis for the” legal distinctions in the statute. *Skrmetti*, 145 S. Ct. at 1835. Licensed therapists hold an important and distinct role in the context of the clinical relationship that “life coaches, mentors, and social-media influencers” do not. Pet. Br. at 51. The legislature’s careful tailoring of the law to reflect relevant legal distinctions ensures that it targets only professional conduct within the confines of a clinical relationship—where professional, ethical, and legal duties to patients apply—rather than the general public, who bear no such obligations and are not similarly subject to licensing and regulation. The Colorado legislature’s decision to tailor its prohibition to

children is within the police power of the state and responsive to the established harms conversion therapy inflicts on this vulnerable population.

That Petitioner describes her conduct as “speech” does not immunize it from regulation. Just because “psychoanalysts employ speech to treat their clients does not entitle them, or their profession, to special First Amendment protection.” *National Ass’n for Advancement of Psychoanalysis v. California Board Of Psychology*, 228 F.3d 1043, 1054 (9th Cir. 2000) (cleaned up), *cert. denied*, 532 U.S. 972 (2001). This Court has upheld narrow regulations on licensed professionals, including when speech is part of their conduct. *National Inst. of Family & Life Advocates v. Becerra*, 585 U.S. 755, 769 (2018) (“professionals are no exception to t[he] rule” permitting “restrictions directed at commerce or conduct” under the First Amendment); *Ohralik*, 436 U.S. at 449, 457–459 (state bar disciplinary rules that “limited the communication of two kinds of information” were “within the State’s proper sphere of economic and professional regulation.”); *Milavetz, Gallop & Milavetz, P.A. v. United States*, 559 U.S. 229, 246 (2010) (upholding statute that “requires [debt relief agency] professionals only to avoid instructing or encouraging assisted persons to take on more debt” when “advising assisted persons to incur more debt”) (cleaned up); *Florida Bar v. Went for It Inc.*, 515 U.S. 618, 632–633 (1995) (holding constitutional under the *Central Hudson* test a ban on targeted mail advertisements to *any* recipient within 30 days of personal injury or wrongful death); *Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council*, 425 U.S. 748, 771–772 (1976) (the

First Amendment “does not prohibit the State from insuring that the stream of commercial information flow cleanly as well as freely”).

Indeed, “it has never been deemed an abridgement of freedom of speech . . . to make a course of conduct illegal merely because the conduct was in part initiated, evidenced, or carried out by means of language, either spoken, written, or printed.” *Ohralik*, 436 U.S. at 456 (cleaned up); cf. *Brown v. Entertainment Merchants Ass’n*, 564 U.S. 786, 799–801 (2011) (invalidating a law prohibiting the sale or rental of violent video games to minors where the government’s research, largely relying on one researcher, showed a weak correlation between violent video games and purported harm, and the law restricted speech portrayed by video games, rather than “its objective effects”).

The Colorado legislature was well within its power to regulate this harmful medical treatment with devastating impacts on children. “[A] state’s interest in safeguarding the physical and psychological well-being of a minor is compelling.” *New York v. Ferber*, 458 U.S. 747, 756–757 (1982) (quotation marks omitted); *Osborne v. Ohio*, 495 U.S. 103, 109 (1990) (“It is evident beyond the need for elaboration that a State’s interest in safeguarding the physical and psychological well-being of a minor is compelling.”); *Ginsberg v. New York*, 390 U.S. 629, 640–641 (1968) (“[T]he State has an interest to protect the welfare of children and to see that they are safeguarded from abuses which might prevent their growth into free and independent well-developed men and citizens.”) (cleaned up). “Psychotherapy” is part of “the medical profession,” *Powell v. Texas*, 392 U.S. 514, 527–528 (1968), and a state’s “interest in regulating mental health is even more

compelling than a state's interest in regulating in-person solicitation by attorneys." *National Ass'n for Advancement of Psychoanalysis*, 228 F. 3d at 1054.

CONCLUSION

The judgment of the Tenth Circuit should be affirmed.

Respectfully submitted,

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