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Board issues order denying petition on sexual change orientation efforts

DES MOINES, IA – The Iowa Board of Medicine has formally denied a petition to amend the Board’s administrative rules on standards of practice to prohibit physicians from engaging in sexual orientation change efforts with any individual less than 18 years of age.

The petition was file with the Board on February 23, 2016. At a public meeting on April 8, 2016, the Board determined that it did not have sufficient facts to initiate rulemaking at this time. However, the Board did vote to establish a subcommittee to study sexual orientation change efforts and to consider rulemaking at a later date.

Pursuant to Iowa Code 17A.7 and 653 Iowa Administrative Code 1.7, the Board today (April 22, 2016) formally issued its denial of the petition. The following are the Board’s order denying the petition for rulemaking and related documents:

BEFORE THE IOWA BOARD OF MEDICINE.

Re:)
)
PETITION BY TIMOTHY FOLEY,)
ADITI RAO, ALEX BARE, ET AL. FOR)
AMENDMENT OF 653 IAC CHAPTER 13) **ORDER DENYING PETITION**
RELATING TO SEXUAL ORIENTATION) **FOR RULEMAKING**
CHANGE PRACTICES)

I. SUMMARY

On February 23, 2016, Timothy Foley, Aditi Rao, Alex Bare, et al. (Petitioners) submitted a petition (EXHIBIT A) to the Iowa Board of Medicine (Board), pursuant to Iowa Code § 17A.7 and Iowa Administrative Code 653-1.7, to amend 653 IAC 13, which establishes standards of practice and principles of medical ethics for administrative medicine physicians, medical physicians and surgeons, and osteopathic physicians and surgeons. Petitioners requested the adoption of a new rule, 653 IAC 13.13, with the following language to prohibit physicians from engaging in sexual orientation change efforts with any individual less than 18 years of age:

13.13(1) *Definitions. For the purpose of this rule:*

“Sexual Orientation Change Efforts” include any practice by a licensed physician that seeks to change an individual’s sexual orientation, including but not limited to the efforts to change behaviors or gender expressions or gender identity, or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same sex. “Sexual orientation change efforts” does not include any of the following:

(a) Counseling or therapy that provides acceptance, support, and understanding of the individual or the facilitation of an individual’s coping, social support, and identity exploration and development, including sexual orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices.

(b) Psychotherapies that do not seek to change sexual orientation.

(c) Counseling for an individual seeking to transition from one gender to another.

“Physician” is any individual licensed to practice medicine pursuant to Iowa Code Chapter 148 or any physician that has the capability to prescribe or prescribe and furnish medication for human ailments

13.13(2) Notwithstanding any law to the contrary, physicians shall not engage in Sexual Orientation Change Efforts as defined in this section with any individual less than eighteen years of age

13.13(3) The Iowa Board of Medicine shall enforced this rule through appropriate disciplinary proceedings established pursuant to Iowa Code §

148.6(2)(g) and all other administrative or disciplinary proceedings within the Board's statutory jurisdiction. All disciplinary proceedings shall be in done in accordance to Iowa Code § 148.7

On April 8, 2016, the Board held a public hearing on the petition for rulemaking to hear from interested parties. See 653 IAC 1.7(4)(c) (allowing the Board to schedule oral presentation of Petitioners' views). The Board heard from parties both for and against the petition. Following the public hearing, the Board deliberated the action to be taken on the petition.

II. DENIAL OF PETITION

Upon receipt of a Petition for Rulemaking, "within sixty days after submission of the petition, the agency either shall deny the petition in writing on the merits, stating its reasons for the denial, or initiate rulemaking proceedings in accordance with section 17A.4..." Iowa Code § 17A.7(1); 653 IAC 1.7(4)(d). The Board on April 8, 2016, determined it did not have sufficient facts to initiate rulemaking at this time. 653 IAC 1.7(2)(b) requires "facts in sufficient detail to show the reasons for the proposed action." The petition cited numerous authorities supporting its request although no studies or evidence were provided to the Board. Accordingly, the Board lacked the ability to evaluate the facts and evidence cited. The Board voted 9-0 to deny the petition and to issue a formal order by April 22, 2016. The Board then voted 8-1 to establish a subcommittee and engage stakeholders to study sexual orientation change efforts and to consider rulemaking at a later date. The Board recognized that other professions such as mental health therapists, marital and family therapists and psychologists may be interested in participating in the subcommittee's study and review of this matter. The subcommittee's activities will allow the Board to gather and evaluate evidence regarding sexual orientation change efforts and to bring all interested professions to the discussion. Further, it will give the Board the time and opportunity to consider whether the language and definitions contained within the rule presented in the petition are appropriate or whether the proposed rule needs revised. The Board noted that evidence presented at the hearing indicated physicians in Iowa are not currently engaged in sexual orientation change efforts so there is no evidence that immediate action is necessary to protect the citizens of Iowa at this time. Consequently, the Board has time to conduct a thoughtful and careful consideration of the practice and the proposed language in the petition.

THEREFORE, IT IS HEREBY ORDERED that the Petition for Rulemaking filed by Timothy Foley, Aditi Rao, Alex Bare, et al. is hereby **DENIED**.

22nd day of April, 2016.



Hamed Tewfik, M.D., Chairman
Iowa Board of Medicine

Judicial review of the Board's action may be sought in accordance with the terms of the Iowa Administrative Procedure Act, from and after the date of this Order, pursuant to Iowa Code § 17A

EXHIBIT A

Before Iowa Board of Medicine

02-23-16P12:51 RCVD

Petition by Timothy Foley, Aditi Rao,
Alex Bare et al for the adoption of rules
relating to Sexual Orientation Change
Practices



PETITION FOR
RULE MAKING

1. Text of Proposed Rule Amendment

IAC 653—13.13 is amended to read as follows:

13.13(1) Definitions. For the purpose of this rule:

“Sexual Orientation Change Efforts” include any practice by a licensed physician that seeks to change an individual’s sexual orientation, including but not limited to efforts to change behaviors or gender expressions or gender identity, or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same sex. “Sexual orientation change efforts” do not include any of the following:

(a) Counseling or therapy that provides acceptance, support, and understanding of the individual or the facilitation of an individual’s coping, social support, and identity exploration and development, including sexual orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices.

(b) Psychotherapies that do not seek to change sexual orientation.

(c) Counseling for an individual seeking to transition from one gender to another.

“Physician” is any individual licensed to practice medicine pursuant to Iowa Code Chapter 148 or any physician that has the capability to prescribe or prescribe and furnish medication for human ailments

13.13(2) Notwithstanding any law to the contrary, physicians shall not engage in Sexual Orientation Change Efforts as defined in this section with any individual less than eighteen years of age

13.13(3) The Iowa Board of Medicine shall enforce this rule through appropriate disciplinary proceedings established pursuant to Iowa Code §148.6(2)(g) and all other administrative or disciplinary proceedings within the Board’s statutory jurisdiction. All disciplinary proceedings shall be done in accordance with Iowa Code §148.7.

2. Statutory Jurisdiction of the Iowa Board of Medicine

Pursuant to IAC 653—1.3(1) the Iowa Board of Medicine “makes policy relative to matters involving medical and acupuncture education, licensure, practice, and discipline.” This rulemaking power vested in the Board grants it the jurisdiction to promulgate standards of practice which this petition seeks to amend.

This section also gives the Board standing to pursue disciplinary proceedings against those under its purview that violates this rule. Pursuant IAC 653—1.3(5)(d) the Board may “initiate and prosecute disciplinary proceedings” for those granted a license to practice if a licensee violates a standard of practice.

The legal precedent also exists because the Iowa Board of Medicine has adopted its standard of practice rules before, specifically in 653-13.5-13.15. This previous regulation of practices related to the execution of duties incumbent upon a doctor establishes sufficient legal grounds for which the board may pursue discipline.

3. Arguments in Favor of Adoption

Sexual Orientation Change Efforts (SOCE) have been rejected as valid medical procedure and has little to no scientific backing among professionals. A professional task force established by the American Psychological Association has concluded that “Recent studies provide no sound scientific basis for determining the impact of SOCE on decreasing same-sex sexual attraction” This conclusion has been corroborated by multiple professional organizations.

Despite its scientific absurdity this process continues to operate throughout the United States, and has been found in some jurisdictions to be a form of consumer fraud in New Jersey (See *King v. Christie*). Further, a similar law passed in California was upheld as the court concluded that such a law does not violate the first amendment nor does it breach any kind of professional-client relationship. This decision was not appealed and as of the drafting of this petition this is the only litigation on the question of gay conversion therapy.

Although its support has been scientifically and legally rejected SOCE continues to exist in Iowa and the United States at large. It is estimated that one third of lesbian, gay, bisexual, transgender, or question young people will be subjected to these practices at some point during their teenage years. The same study by the American Psychological Association that declared these efforts lacked sufficient scientific foundation concluded that those who have been subjected to this form of pseudo therapy have “report experiencing serious distress, including depression, identity, confusion, and fear due to the strong prohibitions of their faith regarding same- sex sexual orientation, behaviors, and relationships.” This depression is empirically linked to higher suicide rates later in life.

4. Underlying Statistics in Favor of Adoption

34% of LGBTQ individuals report having been sent outside the home to a therapist or religious leader to “cure, treat, or change their sexual orientation” during their teenage years. This correlates to suicidal thoughts and actions that are approximately four times higher than gay youth’s heterosexual counterparts. According to a survey of 55 transgender young people 40% of

young people have either attempted or seriously considered suicide compared with the national average of 17%.

5. Names and Addresses of Parties Favoring Adoption, including relevant groups

695 Signatories to an online petition urging action on the question of Sexual Orientation Change Efforts, whose names and postal codes are provided in Appendix I.

The interest of Iowa's young people, whose representatives have endorsed this legislation by a unanimous 22-0 vote who recognize the severity of the issue and prevent the course of action contained in this petition.

The Iowa LGBTQ community, specifically the young people, who have been subjected to this heinous practice oftentimes against their will and who seek to be accepted as full members of their society.

The following individuals who strongly urge the Board of Medicine to take action in the form of adopting the text of the rule written in part one of this petition.

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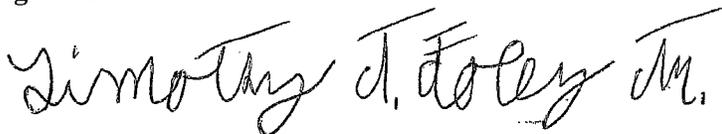
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Signature and Contact Information



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References

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California. Hearings on the Declaration of Caitlin Ryan. Testimony of Caitlin Ryan. 2012 Leg. ECF-41. N.p.: n.p., n.d. Print.

Centers for Disease Control and Prevention. "LGBT Youth." Centers for Disease Control and Prevention. Centers for Disease Control and Prevention, 12 Nov. 2014. Web. 18 Apr. 2015.

Centers for Disease Control and Prevention. "Suicide Facts at a Glance 2015." N.p. Web. Accessed 14 February 14, 2016.

Bagley, Christopher and Pierre Tremblay. *Elevated rates of suicidal behavior in gay, lesbian, and bisexual youth*. Crisis: The Journal of Crisis Intervention and Suicide Prevention, Vol 21(3), 2000, 111-117.

King v. Christie, 2013 U.S. Dist. LEXIS 160035 (D.N.J. 2013)

Pickup v. Brown, 728 F.3d 1042 (9th Cir. 2013)

Appendix I: Online Signatories