

No. 24-539

---

IN THE  
**Supreme Court of the United States**

---

KALEY CHILES,  
*Petitioner,*  
*v.*

PATTY SALAZAR, in her official capacity as  
Executive Director of the Colorado Department of  
Regulatory Agencies, *et al.*,  
*Respondents.*

---

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

---

***Amici Curiae* Brief of America's Frontline  
Doctors and Dr. Simone Gold, M.D., J.D., in  
Support of Petitioner for Reversal**

---

DR. SIMONE GOLD, M.D., J.D.

DAVID A. DALIA, Attorney at Law  
*Counsel of Record*  
700 Camp Street  
New Orleans, LA 70130  
(504) 524-5541  
davidadalia@gmail.com

*Counsel for Amici Curiae*

---

## TABLE OF CONTENTS

TABLE OF AUTHORITIES .....	iv
A MATTER OF GREAT PUBLIC IMPORTANCE.....	1
INTEREST OF <i>AMICI CURIAE</i> .....	2
SUMMARY OF ARGUMENT .....	4
ARGUMENT.....	7
I. Colorado’s “prohibited speech” law, Colo. Rev. Stat. § 12-245-202(3.5), facially violates the First Amendment and the United States Supreme Court’s holding in <i>National Institute of Family         &amp; Life Advocates v. Becerra</i> , 585 U.S. 755 (2018).....	7
II. By attempting to prohibit discussions of <u>all</u> viable treatment options available to patients, Colorado’s “prohibited speech” law breaches professional ethical duties of honesty and transparency owed by counselors to clients, and arguably constitutes professional malpractice.....	11
III. The Colorado law exhibits unconstitu- tional “viewpoint discrimination” in favor of supporting children who are “undergoing gender transition.” Yet 85%+ of those children will desist from the desire to “transition” within a few years after “watchful waiting” therapy. <i>The “prohibited speech” law forbids any</i>	

	<i>discussion of this successful treatment option, and increases the severe risks of lifetime medically horrific adverse consequences of attempting “gender transition.”</i> .....	13
IV.	Medical mutilation of a child’s healthy human body violates informed consent, causes lifetime harmful side effects, violates the Hippocratic Oath, and is criminal child abuse and medical battery. No third party can supply such consent. The pseudo-medical “transgender ideology” stems largely from unreliable and discredited WPATH “Standards of Care” which are entitled to no deference..	14
V.	Merely labeling protected free speech as “conduct” does not change its character as free speech, <i>NAACP v. Button</i> , 371 U.S. 415 (1963), nor does such labeling turn this free speech into unprotected “incidental speech.” <i>NIFLA</i> ..	30
VI.	Colorado’s law is fatally void for vagueness, unconstitutionally overbroad, impossible to enforce, and arguably represents criminal violations of prohibitions against female genital mutilation and criminal and civil violations of free speech under such statutes as 18 U.S.C. § 116, 18 U.S.C. § 241, and 42 U.S.C. § 1983. This Court need not reach these issues because the Colorado law is invalid for facial	

violations of the First Amendment and of <i>NIFLA</i> .....	30
CONCLUSION .....	31

## TABLE OF AUTHORITIES

<u>CASES</u>	<u>PAGE(S)</u>
<i>303 Creative LLC v. Elenis</i> , 600 U.S. 570 (2023) .....	10
<i>Bolger v. Youngs Drug Prod. Corp.</i> , 163 U.S. 60 (1983) .....	8
<i>Dobbs v. Jackson Women’s Health Org.</i> , 597 U.S. 215 (2022) .....	30
<i>Gibson v. Collier</i> , 920 F.3d 212 (5th Cir. 2019) .....	18
<i>Griffin v. Breckenridge</i> , 403 U.S. 88 (1971) .....	31
<i>Health Freedom Defense Fund, Inc. v. Carvalho</i> , 104 F.4th 715 (9th Cir. 2024) .....	3
<i>John Does 1-2 v. Hochul</i> , No. 24-1015 (2025) .....	1, 10
<i>Kory v. Bonta</i> , No. 24-932 (2024) .....	10
<i>Kosilek v. Spencer</i> , 774 F.3d 63 (1st Cir. 2014) .....	18
<i>Mahmoud v. Taylor</i> , No. 24-297 (2024) .....	1

**TABLE OF AUTHORITIES**  
(continued)

<i>Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Comm’n</i> , 138 S. Ct. 1719 (2018).....	10
<i>Murthy v. Missouri</i> , 603 U.S. 43 (2024) .....	1, 3
<i>NAACP v. Button</i> , 371 U.S. 415 (1963) .....	30
<i>Nat’l Fed’n of Indep. Bus. v. DOL, OSHA</i> , 595 U.S. 109 (2022) .....	1
<i>National Institute of Family &amp; Life Advocates v. Becerra</i> , 585 U.S. 755 (2018).....	1, 6, 7, 30, 31, 32
<i>National Institute of Family &amp; Life Advocates v. James</i> , 746 F.Supp.3d 100 (W.D.N.Y. 2024) .....	8–9
<i>National Institute of Family &amp; Life Advocates v. Raoul</i> , 685 F.Supp.3d 688 (N.D. Ill. 2023) .....	9–10
<i>Otto v. City of Boca Raton</i> , 981 F.3d 854 (11th Cir. 2020) .....	12
<i>Planned Parenthood of Southeastern Pa. v. Casey</i> , 505 U.S. 833 (1992).....	7, 30
<i>Police Dep’t v. Mosley</i> , 408 U.S. 92 (1972) .....	8
<i>Rosenberger v. Rector &amp; Visitors of Univ. of Virginia</i> , 515 U.S. 819 (1995) .....	9–10

## TABLE OF AUTHORITIES

(Continued)

<i>Skinner v. Oklahoma</i> , 316 U.S. 535 (1942) .....	5, 25, 26
<i>Schwarzer v. Wainwright</i> , 2021 WL 606002, No. 19-41011 (5th Cir. 2021) .....	31
<i>United States v. Caronia</i> , 703 F.3d 149 (2d Cir. 2012) .....	9
<i>United States v. Guest</i> , 383 U.S. 745 (1966) .....	31
<i>United States v. Price</i> , 383 U.S. 787 (1966) .....	31
<i>United States v. Skrmetti</i> , No. 23-477 (2024) .....	1, 17

### CONSTITUTION

First Amendment .....	8, 10, 13, 31
-----------------------	---------------

### STATUTES AND REGULATIONS

18 U.S.C. § 116 .....	25, 31
18 U.S.C. § 241 .....	31
42 U.S.C. § 1983 .....	31
Colo. Rev. Stat. § 12-245-202(3.5) .....	6, 7, 10, 31

**TABLE OF AUTHORITIES**  
(Continued)

Colo. Rev. Stat. § 18-6-401 .....	29
Illinois Senate Bill SB 1909 .....	9–10

**OTHER REFERENCES**

Texas Attorney General Opinion No. KP-0401 (February 18, 2022).....	25–26
American Psychiatric Association, Gender Dysphoria, 2013. <a href="https://www.psychiatry.org/File%20Library/Psychiatrists/Practice/DSM/APA_DSM-5-Gender-Dysphoria.pdf">https://www.psychiatry.org/File%20Library/Psychiatrists/Practice/DSM/APA_DSM-5-Gender-Dysphoria.pdf</a> .....	15
Ryan T. Anderson & Robert P. George, “Physical Interventions on the Bodies of Children to ‘Affirm’ their “Gender Identity” Violate Sound Medical Ethics and Should Be Prohibited,” <i>Public Discourse: The Journal of the Witherspoon Institute</i> (Dec. 8, 2019), <a href="https://www.thepublicdiscourse.com/2019/12/58839">https://www.thepublicdiscourse.com/2019/12/58839</a> ).....	24
Philip J. Cheng, “Fertility Concerns of the Transgender Patient,” <i>TRANSL ANDROL UROL.</i> 2019; 9(3):209–218, <a href="https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6626312">https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6626312</a> .....	26
Doctors Protecting Children Declaration, <a href="https://doctorsprotectingchildren.org">https://doctorsprotectingchildren.org</a> .....	18, 19–20



## TABLE OF AUTHORITIES

(Continued)

A.K. Edwin, “Don’t Lie but Don’t Tell the Whole Truth: The Therapeutic Privilege – Is it Ever Justified?” <i>Ghana Med J.</i> 42(4):156-161, Dec. 2008. <a href="https://pmc.ncbi.nlm.nih.gov/articles/PMC2673833/">https://pmc.ncbi.nlm.nih.gov/articles/PMC2673833/</a> .....	12
Simone Gold, M.D., J.D.; Melanie Crites-Bachert, D.O., F.A.C.O.S., F.A.C.S.; Brian Atkinson, M.D.; David Heller. <i>AFLDS White Paper: The Civil Liberties and Human Rights Implications of Offering Children Medical Mutilation Procedures.</i> July 2024. <a href="https://res.cloudinary.com/afllds/image/upload/v1720808">https://res.cloudinary.com/afllds/image/upload/v1720808</a> .....	5
“The Gold Report: Ep. 32 ‘Gender Ideology Is A Cult’ with Erin Lee,” <a href="https://www.afllds.org/videos/post/the-gold-report-ep-32-gender-ideology-is-a-cult-with-erin-lee">https://www.afllds.org/videos/post/the-gold-report-ep-32-gender-ideology-is-a-cult-with-erin-lee</a> .....	24
“The Gold Report: Medical Mutilation: Part 1 of 5 ‘The Reality of Gender Affirming Care’ with Dr. Melanie Crites-Bachert,” <a href="https://www.afllds.org/videos/post/the-gold-report-medical-mutilation-part-1-of-5-the-reality-of-gender-affirming-care-with-dr-melanie-crites-bacher">https://www.afllds.org/videos/post/the-gold-report-medical-mutilation-part-1-of-5-the-reality-of-gender-affirming-care-with-dr-melanie-crites-bacher</a> .....	16, 17

## TABLE OF AUTHORITIES

(Continued)

“The Gold Report: Medical Mutilation: Part 2 of 5 ‘The Reality of Gender Affirming Care’ with Dr. Melanie Crites-Bachert,” <a href="https://www.aflids.org/videos/post/the-gold-report-medical-mutilation-part-2-of-5-female-to-male-with-dr-melanie-crites-bachert">https://www.aflids.org/videos/post/the-gold-report-medical-mutilation-part-2-of-5-female-to-male-with-dr-melanie-crites-bachert</a> .....	27
“The Gold Report: Medical Mutilation: Part 3 of 5 ‘The Reality of Gender Affirming Care’ with Dr. Melanie Crites-Bachert,” <a href="https://www.aflids.org/videos/post/the-gold-report-medical-mutilation-part-3-of-5-male-to-female-with-dr-melanie-crites-bacher">https://www.aflids.org/videos/post/the-gold-report-medical-mutilation-part-3-of-5-male-to-female-with-dr-melanie-crites-bacher</a> .....	27
“Miriam Grossman   Gender Ideology and the Medical Experiment on our Children   NatCon 3 Miami” <a href="https://www.youtube.com/watch?v=wIh8tvRLqck">https://www.youtube.com/watch?v=wIh8tvRLqck</a> .....	8, 23, 26
Miriam Grossman, M.D., <i>Lost In Trans Nation: A Child Psychiatrist’s Guide Out of the Madness</i> (New York, NY: Skyhorse Publishing, 2023) .....	8, 16–17, 27
Miriam Grossman, M.D., <i>You’re Teaching My Child WHAT?: A Physician Exposes the Lies of Sex Education and How They Harm Your Child</i> (Regnery Publishing, 2009) .....	8
Paul W. Hruz, M.D., Ph.D., Expert Declaration, Joint Appendix, Vol. 2, <i>United States v. Skrmetti</i> , No. 23-477 (2024) ..	4, 15, 22, 26

**TABLE OF AUTHORITIES**  
(Continued)

<a href="https://aflds.org/about-us/press-releases/american-frontline-doctors-supports-the-filing-of-a-petition-for-preliminary-injunction-to-prevent-kaiser-permanente-from-enforcing-their-vaccine-mandate">https://aflds.org/about-us/press-releases/american-frontline-doctors-supports-the-filing-of-a-petition-for-preliminary-injunction-to-prevent-kaiser-permanente-from-enforcing-their-vaccine-mandate</a> .....	3
<a href="https://americasfrontlinedoctors.org/about-us">https://americasfrontlinedoctors.org/about-us</a> .....	2
<a href="https://code-medical-ethics.ama-assn.org/ethics-opinions/withholding-information-patients">https://code-medical-ethics.ama-assn.org/ethics-opinions/withholding-information-patients</a> ..	11–12
<a href="https://coloradopsychotherapists.org/code-of-ethics/">https://coloradopsychotherapists.org/code-of-ethics/</a> .....	11
<a href="https://donoharmmedicine.org">https://donoharmmedicine.org</a> .....	18
<a href="https://environmentalprogress.org/big-news/wpath-files">https://environmentalprogress.org/big-news/wpath-files</a> .....	18
<a href="https://www.pittparents.com">https://www.pittparents.com</a> .....	13, 29
<a href="https://www.public.news/p/the-wpath-files">https://www.public.news/p/the-wpath-files</a> .....	18
S. Libby and M. Barba, “Woman sues California doctors, says she was rushed at age 12 into gender transition she regrets,” <i>San Francisco Chronicle</i> , Dec. 6, 2024. <a href="https://www.sfchronicle.com/politics/article/la-wsuit-transgender-health-care-19964425.php">https://www.sfchronicle.com/politics/article/la-wsuit-transgender-health-care-19964425.php</a> .....	12

## TABLE OF AUTHORITIES

(Continued)

- U.S. Dept. of Health and Human Services:  
“Treatment for Pediatric Gender  
Dysphoria: Review of Evidence and Best  
Practices,” May 1, 2025. *See* [https://  
x.com/HHSGov/status/19277914494765670  
43](https://x.com/HHSGov/status/1927791449476567043); [https://opa.hhs.gov/sites/default/files/  
2025-05/gender-dysphoria-report.pdf](https://opa.hhs.gov/sites/default/files/2025-05/gender-dysphoria-report.pdf) ..... 6, 27–29
- “*What Is A Doctor?*” America’s Frontline  
Doctors (2024), [https://americasfrontline  
doctors.org/whatisadoctor](https://americasfrontline.org/whatisadoctor); [https://www.you  
tube.com/watch?v=T\\_bifKH7Jds](https://www.youtube.com/watch?v=T_bifKH7Jds) ..... 24, 27

## A MATTER OF GREAT PUBLIC IMPORTANCE

*Amici Curiae* are the Free Speech Foundation, d/b/a America’s Frontline Doctors (AFLDS), and Dr. Simone Gold, M.D., J.D., the founder and physician member with over twenty years’ experience as an emergency room physician in minority communities around the nation.<sup>1,2</sup> *Amici Curiae* respectfully file this *amici curiae* brief in support of the Petitioner for reversal in *Chiles v Salazar, et al.*, 24-539 (2024).

*Amici Curiae* filed *amici curiae* briefs in the recent and related cases of *Murthy v. Missouri*, 23-411 (U.S. 2023), *United States of America v. Skrmetti, Attorney General and Reporter for Tennessee*, 23-477 (U.S. 2024), *Mahmoud v. Taylor*, 24-297 (2024), *Kory v. Bonta*, 24-932 (2024), and *John Does 1-2 v. Kathy Hochul, Governor of New York*, 24-1015 (2025).

AFLDS also filed an *amicus curiae* brief in *Nat’l Fed’n of Indep. Bus. v. DOL, OSHA*, 595 U.S. 109, (2022). Our position prevailed in that case.

This *amici curiae* brief offers an important *medical and legal* perspective to this Court from thousands of doctors on the frontlines, by demonstrating that Colorado’s “prohibited therapeutic speech” law violates the First Amendment, violates this Court’s holding in *National Institute of Family & Life Advocates v. Becerra*, 585 U.S. 755 (2018), and is medically very dangerous.

---

<sup>1</sup> Pursuant to Rule 37.6, it is hereby certified that no counsel or any party authored or prepared this brief in whole or in part, and no such counsel or party made a monetary contribution intended to fund the preparation or submission of this brief.

<sup>2</sup> <https://americasfrontlinedoctors.org/about-us>

## INTEREST OF *AMICI CURIAE*

AFLDS *Amici Curiae* are thousands of member physicians from across the country, representing a range of medical disciplines and practical experience on the front lines of medicine, and its founder and expert physician and attorney member, Dr. Simone Gold, M.D., J.D.

AFLDS’ programs focus on critical issues, including:

- Providing Americans with science-based facts for staying healthy;
- Protecting physician independence from government overreach;
- Combating illnesses with evidence-based approaches without compromising constitutional freedoms;
- Fighting medical cancel culture and media censorship;
- Advancing healthcare policies that protect the physician-patient relationship.

Each of AFLDS’ member physicians is deeply committed to the guiding principle of medicine: “FIRST, DO NO HARM.” They take their ethical obligations to their patients very seriously. A physician’s duty is to his or her patient.

America’s Frontline Doctors is committed to preserving the voluntary and fully informed doctor/patient relationship, opposes any sort of illegal interference with that relationship, and opposes illegal government overreach by the censorship of medical and other information, or by the mandating

of incorrect or dangerous medical information or treatments.

Indeed, AFLDS and Dr. Simone Gold, M.D., J.D. were targeted by the governmental Defendants in *Murthy v. Missouri*, *supra*, as being among the so-called “Disinformation Dozen” for promoting *accurate medical information*, such as the benefits of hydroxychloroquine (“HCQ”) and Nobel prize-winning Ivermectin, and for opposing vaccine passports. AFLDS’ medical information proved to be completely correct. The censors were shown to be advancing inaccurate information, even though incorrect information is also protected free speech.

Dr. Gold and AFLDS also publicly supported the position, as early as October, 2020, that experimental mRNA injections are not “vaccines,” because they do not prevent infection or transmission, and they are neither “safe” nor “effective.”<sup>3</sup> They are personal medical treatments only. This view is now known to be scientifically and legally correct. In June 2024, the Ninth Circuit refused to find these shots to be legally defined as “vaccines” for this very reason.<sup>4</sup>

“Informed consent” cannot truly be informed unless there is a *full* disclosure of all known benefits and risks. Voluntary informed consent can never be coerced, subjected to undue influence, nor distorted by censored and incomplete information. Unfortunately, Colorado engaged in unconstitutional and medically dangerous viewpoint discrimination,

---

<sup>3</sup> <https://afllds.org/about-us/press-releases/americas-frontline-doctors-supports-the-filing-of-a-petition-for-preliminary-injunction-to-prevent-kaiser-permanente-from-enforcing-their-vaccine-mandate>

<sup>4</sup> *Health Freedom Defense Fund, Inc. v. Carvalho*, 104 F.4th 715 (9th Cir. 2024).

compelled therapeutic speech, and the censorship of protected therapeutic speech in this case.

## SUMMARY OF ARGUMENT

The Petitioner should be free to engage in protected and confidential speech with her clients in the best interests of Colorado’s minor children by exploring options such as “watchful waiting,” as an alternative to dangerous “gender transition” surgeries to which these children may be subjected. Healthy lives are at stake. *Amici Curiae* strongly protest using the phrase “gender transition surgery” as this is an intentional distraction from what is actually happening, which is a permanent Frankenstein-esque mutilation of a minor child’s healthy body.<sup>5</sup> Many people are unaware of these gruesome medical facts. This Court must never lose sight of what is really at stake: permanent and irreversible loss of a minor child’s ability to ever create/produce sperm or egg; permanent and irreversible loss of a minor child’s ability to breast-feed, get pregnant, birth or father a baby; and permanent and irreversible facial, body and voice structures. The female child ends up with a lifelong “micro-penis” which typically cannot achieve penetrative intercourse and the male child ends up with a lifelong chronic wound requiring multiple painful dilatations per day. The majority of both sexes have lifelong anorgasmia. The number of “detransitioners,” most with horrific clinical experiences, continues to increase.

---

<sup>5</sup> See Expert Declaration of Paul W. Hruz, M.D., Ph. D., Joint Appendix, Vol. 2, pp. 474, 484-485, *United States v. Skrmetti*, No. 23-477 (2024).



*Amici Curiae* maintain that these controversial surgeries are prohibited medical mutilation of a functional human body. To fully explore this requires free and unhindered therapeutic discussions. *Amici Curiae* do not use the phrase “gender-affirming surgery” because that phrase is inaccurate. The phrase “medical mutilation surgery” accurately describes the surgical offerings which destroy healthy tissue.<sup>6</sup> *Amici Curiae* affirmatively state that true “gender reassignment” surgery is medically impossible and a legal fiction due to the unalterability of the “XX” and “XY” chromosomes. Every single cell in every single organ in the human body, is either XX or XY. Testosterone on an XX female and estrogen on an XY male can never change that.<sup>7</sup>

Alarminglly, many Colorado minors, and indeed minors in general, lack the capacity to understand the substantial risks of these “gender reassignment” surgeries. By definition, a minor cannot understand anorgasmia, their constitutional right not to be sterilized, or irrevocable infertility.<sup>8</sup>

Colorado minors are unable, due to their age, to give informed consent to a procedure that may lead

---

<sup>6</sup> Simone Gold, M.D., J.D.; Melanie Crites-Bachert, D.O., F.A.C.O.S., F.A.C.S.; Brian Atkinson, M.D.; David Heller. *AFLDS White Paper: The Civil Liberties and Human Rights Implications of Offering Children Medical Mutilation Procedures*. July 2024, p. 12. See [https://res.cloudinary.com/afllds/image/upload/v1720808982/Medical\\_Mutilation\\_White\\_Paper\\_1804e8ca1a.pdf](https://res.cloudinary.com/afllds/image/upload/v1720808982/Medical_Mutilation_White_Paper_1804e8ca1a.pdf) (last visited March 7, 2025)

<sup>7</sup> All mammal bodies are oriented toward solely one gamete or the other (male or female reproductive system) even if there is a rare chromosomal abnormality. The presence of any “Y” chromosomal portion orients towards male.

<sup>8</sup> See *Skinner v. Oklahoma*, 316 U.S. 535, 541 (1942).

to their sterilization for life, to irreversible termination of their normal growth during puberty, to numerous serious and lifelong medical complications, and to a lifetime of medications, medical treatments, and a high likelihood of regret and detransition. No third party, including their parents, can supply such consent for them. There is, of course, no common law precedent for a third party to be able to grant permission to one person to mutilate another person's body. No parent nor government actor nor physician has ever had such a right. Honest, ethical and transparent counseling that explores all treatment options free from unconstitutional government viewpoint-discrimination is essential.

Colorado's "prohibited speech" law, Colo. Rev. Stat. § 12-245-202(3.5) blatantly violates the First Amendment, this Court's holding in *National Institute of Family & Life Advocates v. Becerra*, 585 U.S. 755 (2018), and harmfully interferes with the counseling relationship.

Fortunately, the multiple problems with so-called "gender affirming care" have now been officially recognized by the federal government. On May 1, 2025, the United States Department of Health and Human Services (HHS), released a new report entitled "Treatment for Pediatric Gender Dysphoria: Review of Evidence and Best Practices." This important new report is being compared to the United States equivalent of the U.K.'s Cass Review.<sup>9</sup>

---

<sup>9</sup> U.S. Dept. of Health and Human Services: "Treatment for Pediatric Gender Dysphoria: Review of Evidence and Best Practices," May 1, 2025. See <https://x.com/HHSGov/status/1927791449476567043>; <https://opa.hhs.gov/sites/default/files/2025-05/gender-dysphoria-report.pdf>

## ARGUMENT

**I. Colorado’s “prohibited speech” law, Colo. Rev. Stat. § 12-245-202(3.5), facially violates the First Amendment and the United States Supreme Court’s holding in *National Institute of Family & Life Advocates v. Becerra*, 585 U.S. 755 (2018).**

The Tenth Circuit failed to enforce the First Amendment and failed to correctly apply the rule of *National Institute of Family & Life Advocates v. Becerra*, 585 U.S. 755 (2018) (“*NIFLA*”) to Colo. Rev. Stat. § 12-245-202(3.5). The Tenth Circuit erroneously found that crucial information regarding *all* uncensored client treatment options was merely “incidental speech,” incorrectly relying upon *Planned Parenthood of Southeastern Pa. v. Casey*, 505 U.S. 833 (1992). However, *Casey* did not involve “prohibited speech” at all. The State *required additional* speech in *Casey*; it did not *prohibit* additional speech in *Casey*. The speech in *Casey* was necessary to obtain fully *informed consent*. In this case we have opposite: the State is *prohibiting* reality-based speech which is essential for an ethical counselor/client relationship. Medical consultants informing clients of biological reality can never be characterized as “incidental.” *See* Section V.

At the outset, it must be understood that this is in no way about being transphobic. Adults enjoy medical freedom of choice, after informed consent, full disclosure of the risks, and proper medical and psychological screening. This is about conducting an objective analysis of the medical and legal realities.

The Colorado definition of “conversion therapy” uses words exactly opposite to their actual definition. “Conversion therapy” is defined as when the therapist discusses the possibility with a boy that he might actually be a boy, and it is “NOT conversion therapy” when the therapist discusses with a girl her idea of becoming a boy. The viewpoint discrimination is obvious, irrational, and medically dangerous.<sup>10,11,12</sup>

In contrast, in *National Institute for Family and Life Advocates, et al. v. James*, 746 F.Supp.3d 100 (W.D.N.Y. 2024), the district court granted a preliminary injunction against New York state, preventing the state from prohibiting free speech under the guise of “false advertising.” New York attempted to prohibit free speech by Plaintiffs, who wished to say that progesterone or “APR” or Abortion Pill Reversal were safe and effective. The district court stated:

[A]s a “general matter, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content.” *Bolger v. Youngs Drug Prod. Corp.*, 163 U.S. 60, 65 (1983) (quoting *Police Dep’t v. Mosley*, 408 U.S. 92, 95 (1972)). See also *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515

---

<sup>10</sup> See “Rosa,” in Miriam Grossman, M.D., *Lost In Trans Nation: A Child Psychiatrist’s Guide Out of the Madness* (New York, NY: Skyhorse Publishing, 2023).

<sup>11</sup> “Miriam Grossman | Gender Ideology and the Medical Experiment on our Children | NatCon 3 Miami” <https://www.youtube.com/watch?v=wIh8tvRLqck>

<sup>12</sup> Miriam Grossman, M.D., *You’re Teaching My Child WHAT?: A Physician Exposes the Lies of Sex Education and How They Harm Your Child* (Regnery Publishing, 2009).

U.S. 819, 828 (1995) (“It is axiomatic that the government may not regulate speech based on its substantive content or the message it conveys”) ... When the government targets “particular views taken by speakers on a subject, the violation of the First Amendment is all the more blatant.” *Id.* at 829 ... Viewpoint discrimination “is thus an egregious form of content discrimination.” *Id.* And the “government must abstain from regulating speech when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction.” *Id.* Content-based speech restrictions “are subject to ‘strict scrutiny’—that is, the government must show that the regulation at issue is narrowly tailored to serve or promote a compelling government interest.” *United States v. Caronia*, 703 F.3d 149, 163 (2d Cir. 2012). Such restrictions are “presumptively invalid.” *Id.*

*National Institute for Family & Life Advocates v. James*, 746 F.Supp.3d at 119.

Similarly, in *National Institute of Family and Life Advocates v. Raoul*, 685 F.Supp.3d 688 (N.D.Ill. 2023), the district court permanently enjoined the state of Illinois from attempting to enforce SB 1909, which prohibited so-called pro-life viewpoint speech as “deceptive business practices.” The district court stated:

SB 1909 is both stupid and very likely unconstitutional. It is stupid because its own supporter admitted it was unneeded and was unsupported by evidence when challenged. It

is likely unconstitutional because it is a blatant example of government taking the side of whose speech is sanctionable and whose speech is immunized—on the very same subject no less. SB 1909 is likely classic content and viewpoint discrimination prohibited by the First Amendment.

*National Institute of Family and Life Advocates v. Raoul*, 685 F.Supp.3d 688 (N.D.Ill. 2023)

*This is exactly what Colo. Rev. Stat. § 12-245-202(3.5) seeks to do.* The viewpoint discrimination is obvious. The statute “chooses sides” regarding the child’s gender identity, *permitting* (nay, *embracing*) radical “transgender speech,” (which ideology has been largely discredited, *see* Sections III and IV, while unconstitutionally *forbidding* reality-based speech.

This Colorado First Amendment violation is similar to the First Amendment violations and viewpoint discrimination experienced in two other cases before this Honorable Court, *Kory v. Bonta*, 24-932 (2024) (compelled and favored physician therapeutic speech vs. disfavored and censored physician therapeutic speech in California) and *John Does 1-2 v. Kathy Hochul, Governor of New York*, 24-1015 (2025) (favored state-mandated and compelled medical treatment options vs. disfavored medical treatment options).

This is also similar to previous Colorado First Amendment violations corrected by this Court in *303 Creative LLC v. Elenis*, 600 U.S. 570 (2023), and in *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Comm’n*, 138 S. Ct. 1719 (2018).

**II. By attempting to prohibit discussions of all viable treatment options available to patients, Colorado’s “prohibited speech” law breaches professional ethical duties of honesty and transparency owed by counselors to clients, and arguably constitutes professional malpractice.**

It is fundamental to the counseling and psychotherapy professions that counselors owe duties of transparency, honesty and openness to their clients. Therapists and counselors must not withhold valuable information from their clients, information which may prove to be life-saving.

The Code of Ethics for the Colorado Association of Psychotherapists states:<sup>13</sup>

INTEGRITY

Members shall strive to maintain a professional image that connotes competency, integrity, honesty and fairness in the best interests of the client, the profession, and the community.

RESPONSIBILITY TO THE COMMUNITY

...Members shall promote the best interest of clients and the public.

A.M.A. Ethics Opinion 2.1.3 states:<sup>14</sup>

WITHHOLDING INFORMATION FROM PATIENTS

Truthful and open communication between physician and patient is essential for trust in

---

<sup>13</sup> See <https://coloradopsychotherapists.org/code-of-ethics/>

<sup>14</sup> <https://code-medical-ethics.ama-assn.org/ethics-opinions/withholding-information-patients>

the relationship and for respect for autonomy. Withholding pertinent medical information from patients in the belief that disclosure is medically contraindicated creates a conflict between the physician's obligations to promote patient welfare and to respect patient autonomy.

A.K. Edwin writes in PubMed that “withholding information from a competent patient is a violation of the doctor's role as a fiduciary and is not ever justified.”<sup>15</sup>

Forbidding a counselor from discussing viable, less-invasive and statistically successful treatment options violates ethical duties owed to clients such as honesty, transparency, and full disclosure. *Otto v. City of Boca Raton*, 981 F.3d 854 (11th Cir. 2020), *reh. den.*, 41 F.4th 1271 (11th Cir. 2022), in which the Eleventh Circuit declined to enforce a viewpoint discrimination city ordinance censoring therapists within the city of Boca Raton, is directly on point.

Malpractice lawsuits are being filed by former children whose adult bodies can never reverse the permanent and irreversible damage inflicted upon their childhood bodies. Many of these lawsuits allege that counselors did not tell them the biological facts.<sup>16</sup>

---

<sup>15</sup> A.K. Edwin, “Don’t Lie but Don’t Tell the Whole Truth: The Therapeutic Privilege – Is it Ever Justified?” *Ghana Med J.* 42(4):156-161, Dec. 2008. <https://pmc.ncbi.nlm.nih.gov/articles/PMC2673833/>

<sup>16</sup> See, e.g., S. Libby and M. Barba, “Woman sues California doctors, says she was rushed at age 12 into gender transition she regrets,” *San Francisco Chronicle*, Dec. 6, 2024. <https://www.sfchronicle.com/politics/article/lawsuit-transgender-health-care-19964425.php>



**III. The Colorado law exhibits unconstitutional “viewpoint discrimination” in favor of supporting children who are “undergoing gender transition.” Yet 85% of those children will desist from the desire to “transition” within a few years after “watchful waiting” therapy. The “prohibited speech” law forbids any discussion of this successful treatment option, and increases the severe risks of lifetime medically horrific adverse consequences of attempting “gender transition.”**

By “allowing” speech which affirms the child’s gender identity, while forbidding speech which affirms reality-based biology, the Colorado statute is choosing sides. Transgender ideology is one viewpoint and reality-based biology is another viewpoint. The latter viewpoint deploys “watchful waiting” therapy, and using this approach, at least 85%+ of children outgrow their non-reality-based beliefs. The reality-based viewpoint is at least equally entitled to the same First Amendment protections as is the viewpoint that castrates and mutilates minor children. If trapping 100% of children into mutilating procedures was the sole correct path, the nation would not be hearing from tens of thousands of “detransitioners” who have now reached the age of majority.<sup>17</sup>

These irreversible physical damages include permanent and irreversible loss of a minor child’s ability to ever create/produce sperm or egg;

---

<sup>17</sup> See Parents with Inconvenient Truths about Trans (PITT)  
<https://www.pittparents.com/>

permanent and irreversible loss of a minor child’s ability to breast-feed, get pregnant, birth or father a baby; and permanent and irreversible facial, body and voice structures. The female child ends up with a lifelong “micro-penis” which typically cannot achieve penetrative intercourse and the male child ends up with a lifelong chronic wound requiring multiple painful dilatations per day. The majority of both sexes have lifelong anorgasmia.

**IV. Medical mutilation of a child’s healthy human body violates informed consent, causes lifetime harmful side effects, violates the Hippocratic Oath, and is criminal child abuse and medical battery. No third party can supply such consent. The pseudo-medical “transgender ideology” stems largely from unreliable and discredited WPATH “Standards of Care” which are entitled to no deference.**

*Amici curiae* physicians are very concerned that foundational medical principles such as the absolute requirement for informed consent in all cases, the Hippocratic Oath’s “Do No Harm” mandate, and the strict observance of all applicable civil and criminal laws, were trampled upon in recent years by the sudden onslaught of an aggressive “transgender ideology” activism.

The medical mutilation surgeries to which Colorado children could be subjected cause great harms.

A heretofore rare disorder defined gender confusion as “gender identity disorder” in the

American Psychiatric Association’s 1980 Third Diagnostic and Statistical Manual (DSM-3). However, the 2013 DSM-5 replaced “gender identity disorder” with “gender dysphoria.”<sup>18</sup> Terminology such as the “sex assigned at birth,” and concepts such as “being born into the wrong body” have come into use.

For eons, the term “gender” was historically used for grammatical distinctions in Latin and Romance languages. Over the past 1–2 decades “gender” began to be used to describe characteristics of biological sex. The correctness or incorrectness of the new usages of the term “gender” is controversial.<sup>19</sup>

For decades, it was mandatory to have years of physical and psychological screening before any rare adult patient was approved for gender reassignment surgery. All professionals agreed it was absolutely forbidden to medically or surgically treat minor children.

Until very recently, all medical professionals agreed that under NO circumstances could a child consent to these treatments. That fact alone requires this Court to pause. The recent rapid change was instigated by gender activists, not by dispassionate research. All over the world, *countries have now halted their “gender” programs aimed at minors due to utter lack of benefit.* The United Kingdom, Sweden, Norway and Finland have recently drastically limited access, as have Denmark and Chile. France,

---

<sup>18</sup> See American Psychiatric Association, Gender Dysphoria, 2013, [https://www.psychiatry.org/File%20Library/Psychiatrists/Practice/DSM/APA\\_DSM-5-Gender-Dysphoria.pdf](https://www.psychiatry.org/File%20Library/Psychiatrists/Practice/DSM/APA_DSM-5-Gender-Dysphoria.pdf)

<sup>19</sup> See Expert Declaration of Paul W. Hruz, M.D., Ph. D., Joint Appendix, Vol. 2, p. 474, 484-485, *United States v. Skrametti*, No. 23-477 (2024).

Germany and Holland are voicing extreme alarm. It is only the United States, Australia and Canada (where physician-euthanasia is now the sixth leading cause of death) which has not stopped this Frankenstein-esque mutilation of children.

After the 2013 DSM-5 change, suddenly gender confusion was no longer a “disorder,” but was instead a “condition,” a “dysphoria” that could be supported. For activists, it became a condition that could be promoted.

Instead of strict requirements like being an adult, dressing and living as the opposite sex for several years, changing one’s legal documents to reflect the opposite sex, and extensive psychological and psychiatric screening, it is now possible for a man who made no attempt to look like a woman and who expressed no real desire to become a woman, to obtain an approval letter for an insurance company to pay a doctor to chop off his penis or cut off his testicles after only a 20 minute telemedicine interview with a nurse practitioner and a \$150 payment. This exposé by journalist Matt Walsh, the standards of care, the shift in medical treatments by activist-doctors, and the many surgical complications of so-called “gender-affirming care” are discussed by Dr. Gold in “The Gold Report: Medical Mutilation: Part 1 of 5 ‘The Reality of Gender Affirming Care’,” and are also well-documented in *Lost in Trans Nation: A Child Psychiatrist’s Guide Out of the Madness* by gender dysphoria expert Dr. Miriam Grossman, M.D.<sup>20,21</sup>

---

<sup>20</sup> “The Gold Report: Medical Mutilation: Part 1 of 5 ‘The Reality of Gender Affirming Care’ with Dr. Melanie Crites-Bachert,” <https://www.aflds.org/videos/post/the-gold-report-medical-mutilation-part-1-of-5-the-reality-of-gender-affirming-care-with-dr->

In *United States v Skrmetti*, 23-477 (2024), this ideological shift in bias based upon little to no evidence of positive clinical findings can be clearly seen in the government Petitioner’s Brief, “Medical Standards for Gender-Affirming Care,” pp. 3–6. This section is full of alleged medical facts regarding the standards of care for the gender dysphoric, which standards are all described as “accepted” and well-settled, but which are actually hotly contested and sharply disputed in the wider medical community.

This same false “the gender affirming science is well-settled” narrative is echoed in the *Chiles* Respondents’ Opposition Brief. In their “Question Presented,” Respondents baldly state, in effect, that reality-based “watchful waiting” therapies, in anticipation of the statistically probable desistance, and the exploring of all treatment options based upon ethical, uncensored and fully informed consent—thereby avoiding horrific lifelong medical harms—somehow fall below the “accepted standard of care.” Nothing could be further from the truth.

Indeed, the government held out two organizations that the government said set “the accepted standard of care” for treating gender dysphoria, namely, the World Professional Association of Transgender Health (WPATH), and the Endocrine Society. See the *Skrmetti* Petitioner’s Brief, p. 3. However, these organizations and their “standards of care” have been discredited and rejected by the overwhelming number of physicians and medical associations. See the WPATH Files

---

melanie-crites-bachert

<sup>21</sup> Miriam Grossman, M.D., *Lost In Trans Nation: A Child Psychiatrist’s Guide Out of the Madness* (New York, NY: Skyhorse Publishing, 2023).

wherein this activist (NON-physician) organization is revealed to purposefully refuse to provide informed consent to patients.<sup>22,23</sup>

WPATH has been revealed to be essentially a scam, and in one year, 2023, its membership declined more than 60%. There are now only about 1,000 members in the USA. It would be reckless in the extreme for this Court to consider WPATH to be determinative on this subject. *See* the Doctors Protecting Children Declaration.<sup>24</sup> *See* Do No Harm Medicine.<sup>25</sup>

The *amicus curiae* brief from the state of Alabama in *Skrmetti* does an excellent job of exposing the fallacies and misstatements of fact in this monolithic government narrative, which only speaks of the “well-settled standards of care” for gender dysphoria emanating from WPATH and the Endocrine Society:

This and other testimony has led both the First and Fifth Circuits—and, until recently, the U.S. Department of Health and Human Services—to find that “*the WPATH Standards of Care reflect not consensus, but merely one side in a sharply contested medical debate.*” *Gibson v. Collier*, 920 F.3d 212, 221 (5th Cir. 2019); *see Kosilek*, 774 F.3d at 90; ... 85 Fed.Reg. 37160, 37198 (June 19, 2020) (warning of “rel[ying] excessively on the conclusions of an advocacy group (WPATH) rather than on independent scientific fact-finding”).

---

<sup>22</sup> <https://www.public.news/p/the-wpath-files>

<sup>23</sup> <https://environmentalprogress.org/big-news/wpath-files>

<sup>24</sup> <https://doctorsprotectingchildren.org>

<sup>25</sup> <https://donoharmmedicine.org>

*Skrmetti*, Brief of Alabama as *Amicus Curiae* Supporting Respondents, February 2, 2024, p. 14. (emphasis added).

Colorado’s unconstitutional embrace of only one viewpoint in this intense medical debate must be rejected. Indeed, numerous medical organizations all vigorously oppose WPATH and the medical mutilation of minors which promotes biased “transgender ideology.” Over 75,000 physicians and healthcare professionals in over sixty countries are publicly supporting state minor medical mutilation bans and have signed the “Doctors Protecting Children Declaration,”<sup>26</sup> which states:

Therefore, given the recent research and the revelations of the harmful approach advocated by WPATH and its followers in the United States, we, the undersigned, call upon the medical professional organizations of the United States ... *to follow the science and their European professional colleagues and immediately stop the promotion of social affirmation, puberty blockers, cross-sex hormones and surgeries for children and adolescents who experience distress over their biological sex.* Instead, these organizations should recommend comprehensive evaluations and therapies aimed at identifying and addressing underlying psychological comorbidities and neuro-diversity that often predispose to and accompany gender dysphoria. We also encourage the physicians ... to contact their leadership and urge them to

---

<sup>26</sup> See <https://doctorsprotectingchildren.org>

adhere to the evidence-based research now available. (emphasis added).

This Declaration highlights the necessity for unrestricted discussions of this issue, and exposes the misstatements of fact and the widely disputed nature of the Colorado statute’s viewpoint-discrimination. The rosy depiction in the *Skrmetti* Petitioner’s merits brief of the WPATH and the Endocrine Society’s guidelines “as reflecting the consensus of the medical communities on the appropriate treatment for gender dysphoria” is categorically false.<sup>27</sup>

If there was a true “medical consensus,” why have twenty-six states banned the practice, as the *amicus curiae* brief filed by the Ethics and Public Policy Center in this case points out in footnote 8, p. 4?<sup>28</sup>

Activist promotion of “transgender ideology” on the part of Colorado, as opposed to the objective, dispassionate, and ethical practice of counseling, discredits Colorado’s case. This ideological bias is well illustrated by the important discovery of psychologist and noted researcher Dr. Ken Zucker, and WPATH’s reaction to his discovery, as recounted by this paragraph in the *Skrmetti amicus curiae* brief from Alabama:

Dr. Ken Zucker was one such professional “greeted with antipathy” by the activists at WPATH for his alternative views. Zucker ... headed the committee that

---

<sup>27</sup> See *Skrmetti* Petition for a Writ of *Certiorari*, p. 4.

<sup>28</sup> Brief of *Amicus Curiae* Ethics and Public Policy Center In Support of Petitioner, December 9, 2024, p. 4, footnote 8.



developed the American Psychiatric Association’s criteria for “gender dysphoria” in the DSM-V.<sup>41</sup> The 2012 WPATH Standards of Care cite his work 15 times. *In his nearly forty years of research, Zucker discovered “that most young children who came to his clinic stopped identifying as another gender as they got older.” Zucker thus became concerned that transitioning children could entrench gender dysphoria that would otherwise resolve.* (emphasis added).

That position was not popular at WPATH.

Alabama *Amicus Curiae* Brief in *Skrmetti*, February 2, 2024, p. 14.

WPATH went on the warpath against Dr. Zucker after his significant, but not new, discovery. The transgender ideologues could not tolerate the “watchful waiting” approach espoused by Drs. Zucker, Hruz, Grossman, and others, *even if such an approach had more successful clinical outcomes.*

That WPATH rejects these beneficial clinical findings is very concerning from a medical standpoint, and again illustrates their bias. The clinical success in treating gender dysphoria with “Watchful Waiting and Exploratory Therapy” is undeniable. This is explained by Dr. Hruz, M.D., Ph. D. in his Expert Declaration, ¶¶60–62, and is reflected by the positive statistics:<sup>29</sup>

---

<sup>29</sup> See Expert Declaration of Paul W. Hruz, M.D., Ph. D., Joint Appendix, Vol. 2, pp. 474, 504–506, *United States v. Skrmetti*,

60...This realignment of expressed gender identity to be concordant with sex is sometimes called “desistance”...

61...The “watchful waiting” approach does not advocate doing nothing ...

62...Estimates within the peer-reviewed published literature range from 50–98%, with most reporting desistance in approximately 85% of children before the widespread adoption of the “affirming” model discussed below ...

Dr. Hruz goes on to explain in detail exactly how and why “*affirming*” *gender dysphoria treatments such as puberty-blockers, cross-sex hormones, and surgical interventions can be very harmful and cause lifetime permanent damage*.<sup>30</sup>

The *amicus curiae* brief filed by the Ethics and Public Policy Center in this case documents in its footnote 16 how puberty blockers were administered to children as young as nine years old.<sup>31</sup>

The phrase “gender affirming care” softens the reality to market the lucrative medical mutilation industry.

Dr. Miriam Grossman, M.D., also discusses successful and unsuccessful gender dysphoria treatment options, the medical experimentation on our children, and the lack of data showing beneficial effects of puberty-blockers, cross-sex hormones, and surgical interventions. Dr. Grossman recounts the

---

No. 23-477 (2024).

<sup>30</sup> *Id.*, pp. 507–523.

<sup>31</sup> Brief of *Amicus Curiae* Ethics and Public Policy Center In Support of Petitioner, December 9, 2024, p. 7, footnote 16.

heart-wrenching history of her regretful patient who could only say “If I just would have waited.” Dr. Grossman recommends gender dysphoria treatment which includes supportive psychological care, treating other co-morbid conditions such as depression, anxiety, autism (found in more than 70 percent of gender dysphoria patients), family counseling and affirmation of biological reality. Dr. Grossman’s lecture can be viewed here.<sup>32</sup>

WPATH, however, is hostile to these successful non-invasive gender dysphoria treatments because they do not conform to WPATH’s “transgender ideology” bias, which favors “gender transition” surgeries, despite the substantial risks of negative outcomes. WPATH appears to be agenda-driven.

The ethical practice of medicine, consistent with the Hippocratic Oath and with the principle of “Do No Harm”, is **not** agenda-driven.

*Amici Curiae* have been examining in depth the many issues swirling around treatments for gender dysphoria for years. On October 6, 2024, *Amici Curiae* through their affiliate Frontline Films released a full length film called “What Is A Doctor?”, which explores questions surrounding the efficacy of alternative treatments of gender dysphoria, with opinions from Dr. Simone Gold, Dr. Miriam Grossman, Dr. Melanie Crites-Bachert, Dr. Eithan Haim and Dr. Scott Jensen, all independent, expert frontline physicians who take their oaths to “Do No

---

<sup>32</sup> “Miriam Grossman | Gender Ideology and the Medical Experiment on our Children | NatCon 3 Miami” <https://www.youtube.com/watch?v=wIh8tvRLqck> (last visited March 7, 2025)

Harm” very seriously. The documentary “What Is A Doctor?” can be viewed here.<sup>33</sup>

One Colorado mother, Erin Lee, willingly shared with Dr. Gold her family’s fight to achieve a happy outcome for her young daughter. Her illustrative case history can be viewed here.<sup>34</sup> Ms. Lee has filed an *amici curiae* brief in this case.<sup>35</sup>

*Amici Curiae* affirmatively state that changing one’s sex, which is what “transgender ideology,” which can lead to “gender reassignment surgery,” purports to do, is a medical impossibility, for several reasons, including the unalterability of the “XX” and the “XY” chromosomes. Surgical and hormonal interventions can only affect outward appearance; they are akin to cosmetic surgery, except that the surgery destroys normal and healthy functional tissue. Such surgical interventions affect outward appearance, functionality and psychological issues.

Texas Attorney General Ken Paxton opined in TX A.G. Op. No. KP-0401 that much of “this so-called “gender reassignment” surgery also violates Texas criminal laws prohibiting child abuse and child sterilizations. Further, Attorney General Paxton found that children lacked the capacity to consent to any such surgeries, and that the right to procreate has long been explicitly recognized as a fundamental

---

<sup>33</sup> “*What Is A Doctor?*” America’s Frontline Doctors (2024), <https://americasfrontlinedoctors.org/whatisadoctor>; [https://www.youtube.com/watch?v=T\\_bifKH7Jds](https://www.youtube.com/watch?v=T_bifKH7Jds)

<sup>34</sup> See “The Gold Report: Ep. 32 ‘Gender Ideology Is A Cult’ with Erin Lee,” <https://www.aflds.org/videos/post/the-gold-report-ep-32-gender-ideology-is-a-cult-with-erin-lee>

<sup>35</sup> Brief of Erin Lee, Lewis Jones and Brecken Jones, as *Amici Curiae* in Support of Petitioner.

constitutional right since *Skinner v. Oklahoma*, 316 U.S. 535, 541 (1942).

Laws prohibiting child abuse, child sexual abuse, child sterilizations, protecting the fundamental procreation rights of minors, and severely limiting or entirely eliminating the ability of children to give informed consent to such procedures are common throughout the nation.

18 U.S.C. § 116 criminalizes female genital mutilation (“FGM”). Criminal law violations would preclude the acceptability of Colorado’s statute.

Most state laws severely restrict or eliminate the ability of minors to consent to anything, with limited exceptions, because they lack the capacity at a young age to understand the long-term and even the short-term consequences of their actions. They cannot sign binding contracts, buy alcohol, or get tattoos. This obviously includes their inability to give truly informed consent to life-altering puberty blockers, cross-sex hormones, or surgical destruction (not reconstruction) of the normal functioning of their bodies, which is a foreseeable and predictable outcome of the “transgender ideology” to which these Maryland minors are being exposed despite the lawful objections of their parents.

TX A.G. Op. KP-0401<sup>36</sup> is worth reviewing in its entirety, and holds that minors do not have the capacity to consent to radical “gender reassignment” surgery at all, surgery which could result in their permanent sterilization. The logic of the Opinion is inescapable. Minors lack the capacity to give informed consent to lifetime alterations of their

---

<sup>36</sup> See <https://www.texasattorneygeneral.gov/sites/default/files/opinion-files/opinion/2022/kp-0401.pdf>

normal bodily functioning and of their very lives. The Opinion goes on to point out that because procreation is a fundamental constitutional right, *Skinner v. Oklahoma, supra*, minors cannot give consent to their own sterilizations. These procedures can and do cause sterilizations. TX. A.G. Op. at p. 5.<sup>37</sup>

No third party, including parents or the government acting *in loco parentis*, can consent to such medical mutilation of minors.

Much data has been collected and is of record regarding the drastic, life altering, and lifetime adverse effects which are caused by treatments such as puberty blockers, cross-sex hormones, and “gender reassignment” surgeries. These often-horrific long term adverse effects justify enjoining Respondents’ actions in and of themselves.

For example, Dr. Hruz details the clinically-observed serious adverse effects, including the irreversibility of puberty blockers, and the effects on long term height, brain development, and other developmental issues.<sup>38</sup>

Dr. Grossman enumerates problems with bone density (osteoporosis), heart attacks, strokes, blood clots, early menopause, sexual dysfunction, and effects on brain development, from the hormones alone.<sup>39,40</sup>

---

<sup>37</sup> See Philip J. Cheng, “Fertility Concerns of the Transgender Patient,” *Transl Androl Urol.* 2019; 9(3):209-218 (explaining that hysterectomy, oophorectomy, and orchiectomy “results in permanent sterility”), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6626312/>

<sup>38</sup> Hruz, M.D., Expert Declaration, Joint Appendix, Vol. 2, pp. 550, 590, *Skrmetti*, No. 23-477 (2024).

<sup>39</sup> See <https://www.youtube.com/watch?v=wIh8tvRLqck>

<sup>40</sup> Grossman, M.D., a “Surgeon’s Dangerous Idea,” *Lost In Trans*

Many surgical complications of so-called “gender-affirming care” are also discussed by Dr. Gold and Dr. Melanie Crites-Bachert in “The Gold Report: Medical Mutilation series: Parts 2 and 3 of 5, ‘The Reality of Gender Affirming Care,’” regarding complications from female to male surgery (Part 2), and male to female surgery (Part 3).<sup>41</sup>

These adverse effects are also discussed by the five frontline physician experts in America’s Frontline Doctors’ documentary “What Is A Doctor?”<sup>42</sup>

A critical report from the U.K. called the Cass Review, which meticulously reviewed the treatment of transgender youth for four years, found “gaps in the evidence base for hormone treatment” of minors. *Following the Cass Review, the NHS ordered the closure of the Tavistock clinic, the only dedicated gender identity clinic in the U.K.*<sup>43</sup> The importance of this clinic closure must not be missed by this Court: Tavistock was the world’s largest pediatric gender clinic and *it was closed in March 2024 due to risk of harm to children.*

The multiple problems with so-called “gender affirming care” have now been officially recognized by the federal government. On May 1, 2025, the United States Department of Health and Human

---

*Nation*, p. 175.

<sup>41</sup> See <https://www.aflds.org/videos/post/the-gold-report-medical-mutilation-part-2-of-5-female-to-male-with-dr-melanie-crites-bachert>; see also <https://www.aflds.org/videos/post/the-gold-report-medical-mutilation-part-3-of-5-male-to-female-with-dr-melanie-crites-bachert>

<sup>42</sup> See [https://www.youtube.com/watch?v=T\\_bifKH7Jds](https://www.youtube.com/watch?v=T_bifKH7Jds)

<sup>43</sup> See Joint Appendix, Vol. 2, pp. 550, 590, *United States v. Skrametti*, No. 23-477 (2024).

Services (HHS), released a new report entitled “Treatment for Pediatric Gender Dysphoria: Review of Evidence and Best Practices.” This important new report is being described as the United States equivalent of the U.K.’s Cass Review.

Then, in another highly significant new development on May 28, 2025, HHS Secretary Kennedy sent a letter to health care providers, risk managers, and state medical boards, which Secretary Kennedy posted with his statement on the official HHS X account:

HHS sent a letter to health care providers, risk managers, and state medical boards urging immediate updates to treatment protocols for minors with gender dysphoria based on HHS’ comprehensive review that found puberty blockers, cross-sex hormones, and surgeries have very weak evidence of benefit, *but carry risk of significant harms, including sterilization. Providers should no longer rely on discredited guidelines that promote these dangerous interventions for children and adolescents based on ideology, not evidence.* (emphasis added).

Secretary Kennedy further states in his letter that:

This letter advises you to read with care “Treatment for Pediatric Gender Dysphoria: Review of Evidence and Best Practices” (the Review) published by the U.S. Department of Health and vices (HHS) on May 1, 2025. *The Review documents the “weak evidence and growing international retreat” (p. 205) from the use of puberty blockers, cross-sex*



*hormones, and surgeries to treat gender dysphoria in minors and the "risk of significant harm"* (p. 10). The Review explains that "many treatments (e.g., surgery, hormone therapy) can lead to relatively common and potentially serious long-term adverse effects" (p. 221). Given your "obligation to avoid serious harm" (p. 221) and the findings of the Review, HHS expects you promptly to make the necessary updates to your treatment protocols and training for care for children and adolescents with gender dysphoria to protect them from these harmful interventions." (emphasis added).

The HHS statement and letter may be viewed here.<sup>44</sup>

Another source documenting the all-too-often tragic detransitioner stories and videos is the PITT (Parents For Inconvenient Truth About Trans) substack.<sup>45</sup>

Colorado broadly prohibits child abuse by Colorado Criminal Code § 18-6-401. Colorado's counselors must be able to freely explore all options which may be in the best interests of their clients without government interference.

---

<sup>44</sup> <https://x.com/HHSGov/status/1927791449476567043>

<sup>45</sup> See <https://www.pittparents.com/>

**V. Merely labeling protected free speech as “conduct” does not change its character as free speech, *NAACP v. Button*, 371 U.S. 415 (1963), nor does such labeling turn this free speech into unprotected “incidental speech.” *NIFLA*.**

In upholding the withholding of crucial information to therapeutic clients as mere “incidental speech,” the Tenth Circuit ironically relied upon *Planned Parenthood of Southeastern Pa. v. Casey*, 505 U.S. 833 (1992), *overruled on other grounds* by *Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215 (2022) and cited by the *NIFLA* court.

The irony lies in the fact that *Casey* concerned additional medical information that Pennsylvania *mandated* be given to patients in the process of doctors giving patients all of the pertinent information which they needed in formulating fully informed consent. The *NIFLA* court held that this disclosure requirement was incidental to the physicians’ usual practice of obtaining patient informed consent in all cases.

*The complete opposite is true in this case.* Here there is no mandated helpful patient information. There is only *withheld and prohibited* information of viable clinical alternatives such as “watchful waiting” therapy. Such practice is clearly unethical, medically dangerous, and can constitute malpractice.

**VI. Colorado’s law is fatally void for vagueness, unconstitutionally overbroad, impossible to enforce, and arguably represents criminal violations of prohibitions against female genital**

**mutilation and criminal and civil violations of free speech under such statutes as 18 U.S.C. § 116, 18 U.S.C. § 241, and 42 U.S.C. § 1983. This Court need not reach these issues because the Colorado law is invalid for facial violations of the First Amendment and of *NIFLA*.**

A fair reading of Colo. Rev. Stat. § 12-245-202 (3.5) (a) & (b) reveals that the statute is fatally void for vagueness because of numerous subjective terms which are dependent upon differing opinions and interpretations. The statute is also overbroad because it forbids legal and protected free speech.

The Colorado statute may also violate criminal laws proscribing female genital mutilation under 18 U.S.C. § 116, and criminal violations of constitutional rights under 18 U.S.C. § 241, under such cases as *Schwarzer v. Wainwright*, 2021 WL 606002, No. 19-41011 (5th Cir. 2021), *United States v. Guest*, 383 U.S. 745 (1966), *Griffin v. Breckenridge*, 403 U.S. 88 (1971), and *United States v. Price*, 383 U.S. 787 (1966). However, the Court need not reach these issues because the Colorado law is facially invalid under the First Amendment and *NIFLA*.

## CONCLUSION

Because the Colorado statute at issue facially violates the First Amendment, violates *NIFLA*, violates ethical and professional standards mandating the duties of honesty and transparency owed to clients and patients, violates criminal and civil federal and state statutes — all of which can

cause great physical and psychological harms to Colorado’s children — the ruling below should be reversed in favor of Petitioner.

Respectfully submitted,

DR. SIMONE GOLD, M. D., J.D.

DAVID A. DALIA  
*Counsel of Record*  
Attorney at Law  
700 Camp Street  
New Orleans, LA 70130  
(504) 524-5541  
davidadalia@gmail.com

*Counsel for Amici Curiae,  
America’s Frontline Doctors and  
Dr. Simone Gold, M.D., J.D.*

June 6, 2025