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

BRIEF FOR FAMILY RESEARCH COUNCIL AND SAMARITAN'S PURSE AS *AMICI CURIAE* IN SUPPORT OF PETITIONER

CHRISTOPHER E. MILLS
Counsel of Record
Spero Law LLC
557 East Bay Street
#22251
Charleston, SC 29413
(843) 606-0640
cmills@spero.law

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INTEREST OF *AMICI CURIAE*

Family Research Council is a nonprofit research and educational organization. It respects the dignity of every human life, which entails protection of the vulnerable. Two of its scholars, Dr. Jennifer Bauwens and Walt Heyer, recently published a new book—*Embracing God's Design: Addressing the Spiritual and Psychological Crisis Behind Transgender Identity*—that addresses pertinent issues.

Samaritan's Purse is a nondenominational, evangelical Christian organization that provides spiritual and physical aid worldwide. Samaritan's Purse's concern arises when concepts of Biblical and scientific reality are threatened by official action compelling ideologies that diminish common grace related to safety, privacy, speech, and religious exercise.

Amici thus have a significant interest in this case.*

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* No counsel for a party authored this brief in whole or in part, and no person other than *amici curiae*, their members, or their counsel monetarily contributed to it.

SUMMARY OF THE ARGUMENT

Colorado's theory is that by imposing licensing and content-based speech requirements, it can transform speech into professional conduct and evade the First Amendment. That theory is contrary to this Court's precedents, which recognize that speech is speech. See *NIFLA* v. *Becerra*, 585 U.S. 755, 767 (2018). If Colorado's theory were right, States could just as easily pair licensing with speech requirements on journalists and thereby control what is printed in newspapers, said on television, and posted on blogs. But States do not have "unfettered power to reduce a group's First Amendment rights by simply imposing a licensing requirement." *Id.* at 773. Talk therapy is pure speech, no matter if someone pays for it, so the First Amendment protects it.

This brief makes two points supporting reversal.

First, Colorado and the courts below relied heavily on a purported "consensus" of American medical interest groups, led by the American Psychological Association (APA). But there is no reason to trust APA on this issue. APA's history, guidelines, and public policy positions show that it has long prioritized ideology and political advocacy over science.

APA's brief to the Tenth Circuit confirms this orientation. Invoking its own evidentiary review, APA told the court below that talk therapies that *could* lead a child to their original identity "do cause harm" and "do not offer the possibility of conversion."[1] Those

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[1] Brief of APA 2, 4, *Chiles* v. *Salazar*, Nos. 22-1445, 23-1002, 2023 WL 3346804 (CA10 May 5, 2023) ("Br.").

claims are not evidence-based. How do we know? Most obviously, APA's own review said that "[t]here are no scientifically rigorous studies . . . that would enable us to make a definitive statement about whether [these therapies are] safe or harmful"—or "effective."[2] No sound evidence supports APA's claim of a causal connection between talk therapy for minors and harm. Beyond misrepresenting its own systematic review, APA relies on a handful of slipshod studies that did not focus on talk therapy or control for relevant variables. APA cites this deficient evidence to claim that children cannot provide informed consent to simply *talking* in therapy. Yet it told this Court in *United States* v. *Skrmetti* that children *could* consent to vastly more dangerous and unproven hormones and surgeries that involve a certainty of permanent sterilization. APA and its tagalong interest groups should not be credited on this issue.

Second, banning talk therapy—as Colorado has done and APA supports—will harm children. Even in States that have not banned talk therapy for children suffering from gender dysphoria, APA's heavy-handed ideological enforcement has deterred therapists from offering thorough counseling for these vulnerable youth. Instead, APA and Colorado demand immediate affirmation. Not only does that approach deprive children of the opportunity to air and address the causes and effects of co-occurring mental health

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[2] APA, *Report of the American Psychological Association Task Force on Appropriate Therapeutic Responses to Sexual Orientation* 43, 83 (2009), https://perma.cc/HX9S-6L57 (J.A.131) ("Report").

issues—most notably, childhood trauma—but it also ushers children onto a conveyor belt ending in sterilizing hormones and surgeries. Thus, the approach demanded by APA and codified by Colorado will cause lifetime devastation to some number of hurting children. The Court should reverse.

ARGUMENT

The question here "is whether to recognize an exception to freedom of speech when the leaders of national professional organizations declare certain speech to be dangerous and demand deference to their views." Pet.86a (Hartz, J., dissenting). Once again, this Court is told that it must subordinate constitutional principles to "the prevailing medical consensus" of "[e]very mainstream medical and mental health organization." Pet.66a, 68a n.44. But on contested issues of personal identity, these American interest groups—led here by APA—are motivated by ideology rather than science. And their demanded approach, codified by Colorado—denying children beneficial talk therapy that could address underlying causes of mental health issues like childhood trauma without the need for sterilizing hormones and surgeries—will harm children.

I. APA, like Colorado's other favored groups, is driven by ideology—not science.

Medical interest groups are often wrong, blinded by ideology, self-interest, ignorance, or "consensus." Hence eugenics, lobotomies, opioids, thalidomide, smoking, and peanut allergies. See generally Makary, *Blind Spots* (2024).

As one *amicus* has recently shown, the dangers of relying on purported medical consensus are especially severe in debates involving sexuality and gender identity. On those issues, American medical consensus reflects nothing more than underlying ideological commitments, as medical interest groups release evidence-free statements and guidelines that fit their desired narrative. See generally Brief for Family Research Council as *Amicus Curiae* 6–28, *United States* v. *Skrmetti*, No. 23-477, 2024 WL 4594889 (U.S. Oct. 15, 2024) ("FRC *Skrmetti* Br.").

Yet once again, this Court is told that it must defer to "the mainstream sense" of medical interest groups. Pet.67a. Even while the Tenth Circuit below recognized that these groups are often wrong, it offered a "Nietzschean vision" that we are "tested by following"[3] them: though "expert medical organizations have changed their view[s]," "we still trust doctors, and the professional organizations representing them." Pet.69a n.45 (cleaned up).

But as the United States Department of Health and Human Services explains in a comprehensive report about childhood gender dysphoria, that vision "overlook[s] the fact that fundamentally, these organizations operate as trade associations."[4] Even if individual clinicians may be "motivated by altruism,"

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[3] *Planned Parenthood of Se. Pennsylvania* v. *Casey*, 505 U.S. 833, 996 (1992) (Scalia, J., concurring in judgment in part and dissenting in part).

[4] *Treatment for Pediatric Gender Dysphoria: Review of Evidence and Best Practices* 205 (May 1, 2025), https://perma.cc/A322-8Z8L ("HHS Review").

"it should not be assumed that the collective actions of an organization" subject to "institutional biases, reliance on external guidance from advocacy-oriented groups, and internal political dynamics" are.[5] These organizations "may impede or even oppose evidence-based medicine" because of ideology or financial interests, and they "foster[] environments in which clinicians feel compelled to self-censor."[6] Worse, these organizations will often "target[] individuals and groups that question or critically examine prevailing practices."[7]

As the HHS review emphasizes, these problems are especially severe for the issues implicated here, which are often "framed as" "civil rights issue[s] or a struggle against discrimination."[8] The United Kingdom's Cass Report—the other seminal review of evidence about childhood gender transition—likewise found that "[t]here are few other areas of healthcare where professionals are so afraid to openly discuss their views, where people are vilified on social media, and where name-calling echoes the worst bullying behaviour."[9] The result? "[M]ajor medical associations issued advocacy-driven recommendations prematurely, without adequate scientific support."[10]

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[5] *Id.* at 205, 211.
[6] *Id.* at 205–06.
[7] *Id.* at 209.
[8] *Id.* at 210.
[9] Cass, *Independent Review of Gender Identity Services for Children and Young People* 13 (Apr. 2024), https://perma.cc/74EA-L76V ("Cass Report").
[10] HHS Review 211.

Amicus has already documented this phenomenon at several medical groups that Colorado has invoked, including the World Professional Association for Transgender Health (WPATH) and the American Academy of Pediatrics (AAP). FRC *Skrmetti* Br. 8–23; see also Brief of Alabama as *Amicus Curiae*, *Skrmetti*, 2024 WL 4525181 (U.S. Oct. 15, 2024).

The major player in this case, however, is the American Psychological Association (APA), whose reports and *amicus* briefs were repeatedly relied on by the courts below. Pet.42a, 44a, 51a, 61a, 65a, 66a, 67a, 68a, 71a. That reliance was misplaced. APA's opposition to talk therapy is not based on the best available evidence. Rather, APA's statements are rooted in its ideological commitments. APA should not be trusted to provide evidence-based analysis on issues of sexuality and gender identity.

A. Ideology in APA's history.

When APA was founded in 1892, psychology "was still an extremely new field,"[11] and the group did not position itself as a public policy organization. Yet from the start, it pushed its own ideological agenda divorced from reliable evidence. For instance, the eugenics "idea of sterilizing people deemed 'unfit' to procreate gained wide acceptance in intellectual circles" in the early twentieth century thanks in large part to APA. Gorsuch & Nitze, *Over Ruled: The Human Toll of Too Much Law* 54–55 (2024). Between

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[11] Kazenoff, *The American Psychological Association Has Lost Its Mind*, Capital Research Center (March 8, 2019), https://perma.cc/2PSY-P246.

1892 and 1947, a whopping 31 of APA's presidents—more than half—led eugenics organizations.[12] Many other "APA leaders actively supported eugenics for decades, calling for sterilization initiatives for 'unfit and inferior races.'"[13]

APA has a heinous record on race issues generally.[14] In 1923, APA elected Lewis Terman—a leading eugenics proponent[15]—as its president. Terman infamously created "a revised version of the Stanford-Binet scale to justify a segregated system of education to train certain children, such as Blacks, Mexicans, and Native Americans."[16] APA later admitted that due to Terman's work, "[o]ther intelligence tests based on scientific racism followed."[17] There was never anything "scientific" about Terman's and APA's racism. Rather, it was ideology masquerading as science.

Likely due to APA's persistent inclination toward ideology rather than science, throughout the 1970s, "scientists perceived that the APA was beginning to

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[12] Cummings, *Historical Chronology* 5, Ctr. for Hist. Psych. (2021), https://perma.cc/VX6C-BUA5.
[13] DeAngelis & Andoh, *Confronting Past Wrongs and Building an Equitable Future*, 53(2) Monitor on Psych., at 24 (Mar. 2022), https://perma.cc/VJD5-GLVR.
[14] Cummings, *supra* note 12, at 5.
[15] Leslie, *The Vexing Legacy of Lewis Terman*, Stanford Magazine (July 2000), https://perma.cc/X2XV-2U69.
[16] DeAngelis & Andoh, *supra* note 13, at 25.
[17] *Ibid.*

undervalue science and scientific standards, thus threatening 'the integrity of the discipline.'"[18]

In 2021, APA issued an apology for (some of) its past wrongs,[19] and *now* is purportedly "dedicated to increasing and disseminating psychological knowledge." Br. 1. But to use the words of APA's apology, "history can repeat itself."[20] "Indeed, if our history has taught us anything, it has taught us to beware of elites bearing" "faddish social theories." *Parents Involved in Cmty. Sch.* v. *Seattle Sch. Dist. No. 1*, 551 U.S. 701, 780–81 (2007) (Thomas, J., concurring). And APA's recent statements and positions provide no reason to believe that its ideological orientation is "a relic of the past [and] that future theories will be nothing but beneficent." *Id.* at 781–82.

Even as APA apologized for its past racism, it pledged future racism in service of "becom[ing] an actively antiracist discipline."[21] It seeks to impose racial discrimination in hiring, publication, and leadership.[22] APA pledges "to develop[] future policy"

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[18] Silander & Tarescavage, *Ideological Bias in American Psychological Association Communications*, in *Ideological and Political Bias in Psychology* 315, 318 (Frisby et al. eds., 2023) (citing Cautin, *The Founding of the Association for Psychological Science: Part 2*, 4(3) Persp. on Psych. Sci. 224, 225 (2009)).

[19] APA, *Apology to People of Color for APA's Role in Promoting, Perpetuating, and Failing to Challenge Racism* (Oct. 2021), https://perma.cc/D5N8-3EPU.

[20] *Ibid.*

[21] *Ibid.*

[22] APA, *Role of Psychology and APA in Dismantling Systemic Racism* (Oct. 29, 2021), https://perma.cc/S8HA-925J.

in a way that "decenters Whiteness."[23] For instance, APA dismisses as a "[s]tructural bias[]" "a lack of appreciation for qualitative and mixed-methods research"—*i.e.*, non-rigorous research reflecting feelings and "lived experiences."[24] APA disdains statistically sound research methods as "epistemologies most closely aligned with Whiteness."[25] APA has announced that "no one methodological approach is 'better,'" and it wants to elevate "constructivist, critical-ideological, and other critical paradigms."[26]

Unsurprisingly, APA continues to make pronouncements dictated by ideology, not sound science. This can be seen in APA's guidelines, its public policy positions, and its arguments here.

B. Ideology in APA's guidelines.

From APA's founding, the organization developed an ideological "far-left streak."[27] Though psychologists have traditionally skewed left, APA's shift toward an ideological approach became most evident during the early 1970s when "leaders in the practice community began organizing politically."[28] Enthusiasm quickly grew "within the APA for taking a more active role in issues of public policy."[29]

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[23] *Apology*, *supra* note 19.
[24] *Role of Psychology*, *supra* note 22; *Apology*, *supra* note 19.
[25] *Role of Psychology*, *supra* note 22.
[26] *Ibid.*
[27] Kazenoff, *supra* note 11.
[28] Cautin, *The Founding of the Association for Psychological Science: Part 1*, 4(3) Persp. on Psych. Sci. 211, 217 (2009).
[29] *Ibid.*

In its guidelines, APA regularly relies on far-left ideological concepts that lack empirical examination.[30] For instance, the concepts of intersectionality, racial privilege, oppression, and the social construction of gender and sexuality have become major pillars of recent guidelines, including its "Multicultural Guidelines."[31] Likewise, APA's recent recommendations on male patients instruct practitioners to treat masculinity as "on the whole, harmful" and socially constructed.[32] APA's "overemphasis" on ideological concepts has resulted in "underdeveloped and off-the-mark responses" to psychological issues.[33]

APA's ideology also influences "the reporting and execution of psychological research in a top-down manner."[34] APA's recent "Style Guidelines," which set forth rules for "scholarly communication," include a section on bias-free language relying on ideologically-driven postmodern concepts.[35] APA admonishes that "birth sex" and "natal sex" (and "males" and "females") are improper because they "imply that sex is an immutable characteristic without sociocultural

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[30] Tarescavage, *Science Wars II*, 27(2) Clinical Psych. Sci. Prac., at 2 (2020).
[31] APA, *Multicultural Guidelines* (2017), https://perma.cc/QYM4-MRVQ.
[32] Pappas, *APA Issues First-Ever Guidelines for Practice with Men and Boys*, 50(1) Monitor on Psych., at 34, 35 (2019).
[33] Silander & Tarescavage, *supra* note 18, at 321.
[34] Tarescavage, *supra* note 30, at 2.
[35] APA, *Style and Grammar Guidelines* (Feb. 2024), https://perma.cc/YDN5-Y868; see Tarescavage, *supra* note 30, at 2.

influence."[36] Thus, APA requires the use of "assigned sex," which APA says refers to "determination of chromosomes and anatomical structures of the body at birth, *which necessarily is interpreted within a sociocultural context*."[37] APA does not explain how chromosomes differ across "sociocultural contexts."

As HHS recently noted, "'Sex assigned at birth' is not a euphemism for 'biological sex' but a critique of the very concept."[38] Nor is "assigned sex" "a harmless euphemism," for it "suggests an arbitrary decision . . . rather than the observation of a characteristic present long before birth."[39] And "[t]he terminology of 'sex,' 'male,' and 'female' is indispensable if the medical and ethical issues are to be discussed responsibly."[40] But not only does APA believe there is no objective way to define "sex" in research contexts, it eventually throws up its hands and decrees it more "important to use the terms people use to describe themselves."[41] That would make a hash of any research effort involving sex.

APA's response to research that deviates from its ideology is censorship. After the Cass Report was published in April 2024, several APA state affiliates "prohibited its very discussion on their professional

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[36] APA, *Gender Style and Grammar Guidelines* (Oct. 2024), https://perma.cc/33EK-G3YN.
[37] *Ibid.* (emphasis added).
[38] HHS Review 32.
[39] *Ibid.*
[40] *Id.* at 31.
[41] *Gender Style*, *supra* note 36.

listservs."[42] The Pennsylvania affiliate banished discussion because "LGBTQIA+" members and their "allies" may feel "targeted."[43]

In short, APA's "mandates" are "dominated by ideology rather than evidence." Pet.86a (Hartz, J., dissenting).

C. Ideology in APA's public policy positions.

American medical groups have largely moved beyond trying to report objective scientific facts, taking on a primary role of advocating for certain public policies. APA is no different. But APA's pronouncements reveal an especially lopsided shift toward advocacy.

APA's advocacy goals and resulting statements are typically a "product of self-selected political" inclinations rather than a representation of the perspectives of the psychological community.[44] In many ways, APA has become an "echo chamber[] where dissent is suppressed, confirmation biases go unchecked, and professional deference is exploited."[45] As one academic noted, APA has "consistently failed to distinguish" "between scientific 'truths' (which are few and far between) and policy positions" that are dictated by ideology rather than empirical data.[46]

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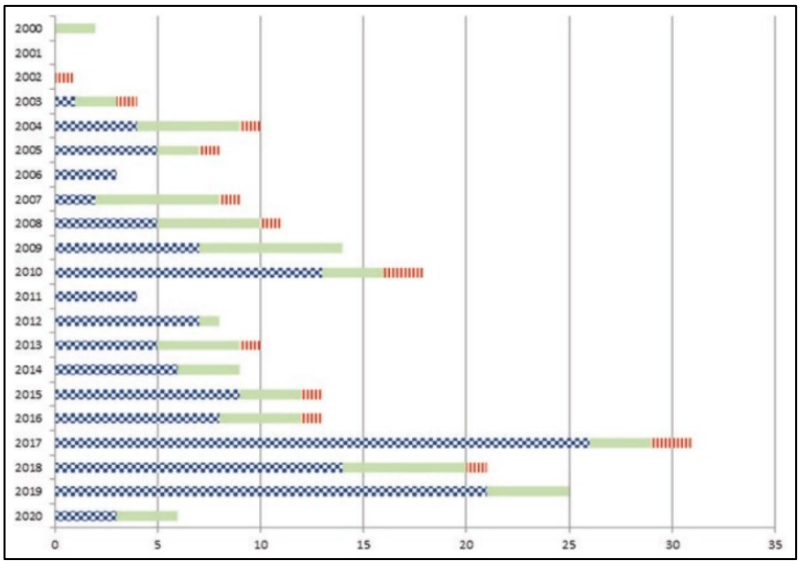
[42] HHS Review 206.
[43] *Id*. at 207.
[44] Ferguson, "*Everybody Knows Psychology is Not a Real Science": Public Perceptions of Psychology*, 70(6) Am. Psych. 527, 533 (2015).
[45] HHS Review 204.
[46] Ferguson, *supra* note 44, at 535.

A recent study analyzed 1,437 APA press releases issued from 2000 to April 2020.[47] From 2000 through 2002, APA issued 144 press releases, compared to 297 between 2017 and 2019—a 106% increase.[48] Only 6 of the 144 press releases (4.1%) between 2000 and 2002 directly commented on political issues, whereas 77 out of the 297 press releases between 2017 through 2019 were political—a 532% increase.[49] From 2017 to 2019, 61 of 77 political press releases (79.2%) slanted left, and 3 purportedly slanted right (about veterans).[50]



Political Press Releases (Blue: Left; Red: Right)[51]

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[47] Silander & Tarescavage, *supra* note 18, at 323, 325.
[48] *Id.* at 325.
[49] *Id*. at 326.
[50] *Ibid*.
[51] *Ibid.*

Notwithstanding APA's status as a purportedly scientific group, "only 40% of [APA's] political press releases reference psychological research," and "only 14% provided citations for the research reviewed."[52]

These numbers only tell part of the story. Many of the political issues that APA feels compelled to weigh in on have little to no relation to the profession of psychology: opposing a partial government shutdown,[53] supporting the Deferred Action for Childhood Arrivals program,[54] demanding a ceasefire in the conflict in Israel,[55] and calling for reparations.[56]

That these public statements stem from ideological biases is reinforced by the group's *lack* of comment on other issues. For instance, APA swiftly commented on allegations against a Supreme Court nominee—denouncing "statements questioning the integrity of Dr. Ford and the veracity of her allegation due to her prior lack of reporting"—and developed a grant in the name despite the evidence against her allegations.[57]

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[52] *Id.* at 332.

[53] APA, *Government Shutdown Increasing Stress* (2019), https://perma.cc/CB9X-VMN5.

[54] APA, *APA Calls on President to Preserve "Dreamers" Program* (2017), https://perma.cc/EX6S-2E32.

[55] APA, *Statement Calling for an Immediate, Permanent, and Comprehensive Ceasefire* (Aug. 2024), https://perma.cc/DX75-N938.

[56] APA, *Individual, Collective, and Intergenerational Trauma Recovery* (Aug. 2024), https://perma.cc/P24C-DE94.

[57] APA, *Statement of APA President Regarding the Science Behind Why Women May Not Report Sexual Assault* (2018), https://perma.cc/ST7A-NJY4; APA, *American Psychological Foundation Establishes Grant Honoring Christine Blasey Ford* (2019), https://perma.cc/57DK-DL9S.

Yet APA stayed silent when then-candidate Joe Biden faced similar accusations soon after.[58] Ideology decides when APA speaks—and what it says.

D. Ideology in APA's legal stances, including here.

APA's ideological bent infects its legal work too, as APA churns out *amicus* briefs that are outside its supposed expertise or misrepresent science. From repeatedly advocating for abortion on demand,[59] to protesting the nuclear reactor at Three Mile Island,[60] to advocating for race-based preferences,[61] APA's eagerness to insert its ideological preferences is far-reaching. Even when a case involves some potentially relevant regulation—as when States have enacted modest pre-abortion informed consent requirements—APA has loudly opposed state "intru[sion]": "[e]ffective counseling," APA insisted, "requires the exercise of professional discretion regarding . . . what to say."[62]

But APA sings a different tune here. As APA has done in similar cases, it filed an *amicus* brief below

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[58] Silander & Tarescavage, *supra* note 18, at 332.

[59] *E.g.*, Brief for APA as *Amicus Curiae*, *Planned Parenthood of Se. Pennsylvania* v. *Casey*, Nos. 91-744, 91-902, 1992 WL 12006399 (U.S. Mar. 6, 1992).

[60] Brief for APA as *Amicus Curiae*, *Metropolitical Edison Co.* v. *People Against Nuclear Energy*, No. 82-358, 1982 WL 1045125 (U.S. Sept. 30, 1982).

[61] Brief for APA as *Amicus Curiae*, *Students for Fair Admissions, Inc.* v. *President & Fellows of Harvard Coll.*, Nos. 20-1199, 21-707, 2022 WL 3108813 (U.S. Aug. 1, 2022).

[62] Brief of *Amicus Curiae* APA 8, *Thornburgh* v. *Am. College of Obstetricians & Gynecologists*, No. 84-495, 1985 WL 669706 (U.S. Aug. 21, 1985) (emphasis omitted).

supporting Colorado's law. And the Tenth Circuit repeatedly relied on both that brief and APA's other publications. Pet.42a, 44a, 51a, 61a, 65a, 66a, 67a, 68a, 71a. That reliance was misplaced.

APA's brief claims "to provide the Court with context regarding the state of scientific knowledge about the safety and effects of . . . sexual orientation and gender identity change efforts." Br. 1. APA then says such efforts are "dangerous, discredited practices." *Id.* at 4. APA leans on its own 2009 report purporting to provide a systematic review of sexual orientation change therapy, along with 2021 resolutions that voice APA's disapproval of sexual orientation *and* gender identity change therapies. *Id.* at 11–13. Though APA claims it is describing "the best available evidence," *id.* at 6, that is incorrect. APA in fact misrepresents *its own* evidence and fails to engage with evidence it dislikes. APA's argument is suspect in at least three major ways.

1. APA elides the distinction between different therapies.

First, APA's brief elides the distinction between the type of talk therapy that Petitioner and other licensed therapists provide and "aversive techniques" involving physical stimuli. APA refuses to even use the term "therapy," on the basis that this term "impli[es] that there is some disorder to be treated."[63] But gender dysphoria is listed in the *Diagnostic and*

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[63] APA, *Resolution on Sexual Orientation Change Efforts* 1 (Feb. 2021), https://perma.cc/VQP5-BQQV.

Statistical Manual of Mental Disorders, which APA's brief otherwise relies on.[64]

At any rate, APA's brief lumps everything together as "change efforts," conflating aversive techniques with talk therapy and pretending that the same conclusions apply to both. But its own systematic review "found that nonaversive and recent approaches to [change efforts] have not been rigorously evaluated." Report 43. And "[g]iven the limited amount of methodologically sound research, we cannot draw a conclusion regarding whether recent forms of [these efforts] are or are not effective." *Ibid.*

Even the Tenth Circuit majority had to agree that APA has identified no "studies confined *only* to talk-based conversion therapy administered only to minors." Pet.71a n.47. APA has not even identified a study "limited to talk therapy," much less talk therapy "by licensed professionals." Pet.119a, 123a n.26 (Hartz, J., dissenting).

Common sense suggests that a different cost-benefit analysis could apply to talk therapy and aversive techniques like "induc[ing] nausea, vomiting, or paralysis" or "providing electric shocks." Pet.14a n.7. Yet APA's brief unreservedly proclaims that all these therapies "are dangerous" and "do not offer the possibility of conversion." Br. 4. Those extravagant claims are not grounded in the evidence about talk therapy.

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[64] Am. Psychiatric Ass'n, *Diagnostic and Statistical Manual of Mental Disorders* 451 (5th ed. 2013); see Br. 9.

2. APA's claim that talk therapy causes harm is unsupported by its evidence review.

APA claims that its 2009 systematic review "concluded" that sexual orientation change efforts are "adverse" and "do cause harm." Br. 2. Here's what APA's 2009 report actually concluded: "Early and recent research studies provide no clear indication of the prevalence of harmful outcomes among people who have undergone efforts to change their sexual orientation or the frequency of occurrence of harm because no study to date of adequate scientific rigor has been explicitly designed to do so." Report 42. While APA says that its report noted a potential "loss of sexual feeling, depression, suicidality, and anxiety," Br. 15, APA omits the critical conclusion just after this list of hypothetical "side effects": "There are no scientifically rigorous studies of recent [sexual orientation change efforts] that would enable us to make a definitive statement about whether recent [therapies] [are] safe or harmful and for whom." Report 83. APA made the point repeatedly: "We conclude[] that research on" these therapies "has not answered basic questions of whether [they are] safe or effective and for whom." *Id.* at 90.

APA does not disclose any of these "ultimate[] conclu[sions]" (Br. 15) in its brief. (Neither does Colorado, even though its lead witness *authored* APA's report. See BIO 6; J.A.19.) APA's brief highlights several studies without noting its report's conclusion that those exact studies "do not provide valid causal evidence of the efficacy of [change therapy] or its harm" and "do not provide the kind of information needed for definitive answers to questions [about]

safety and efficacy." Report 42, 83; see Br. 16 & n.7. Only by disregarding its own systematic review can APA assert that these therapies "do cause harm" and "do not offer the possibility of conversion." Br. 2, 4.

APA's brief tries to backfill with studies after its report, but those have the same underlying deficiencies. See Br. 16–17. Indeed, a book published by APA (in a chapter written by Colorado's witness) found that no "methodologically sound studies" between 2008 and 2020 enabled any sound conclusion about the safety or efficacy of these therapies.[65]

APA's brief cites a study about Canadian sexual minorities, but that study said that "[w]e are unable to know whether [sexual orientation change efforts] preceded the psychosocial health outcomes identified," and "establishing causal inference was not the objective of this study."[66] APA's other study also could not identify "causal relationships."[67]

The disconnect between APA's legal representations to the courts and its underlying research is disqualifying. According to APA, psychologists "do not misrepresent research" and "strive to prevent bias from their own beliefs."[68] APA's brief defies those descriptions.

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[65] Glassgold, *Research on Sexual Orientation Change Efforts*, in *Case Against Conversion "Therapy"* 33 (Haldeman ed., 2022).
[66] Salway, *Prevalence of Exposure to Sexual Orientation Change Efforts*, 65(7) Canadian J. Psychiatry 502, 507 (2020).
[67] Blosnich, *Sexual Orientation Change Efforts*, 110(7) Am. J. Public Health 1024, 1029 (2020).
[68] *Resolution*, *supra* note 63, at 4, 7.

As for gender identity-related therapy, APA never claims to have conducted a systematic review of the literature. See Br. 6 n.5. Instead, its ideological task force appears to have considered cherry-picked evidence and passed a resolution. But APA does not and cannot contend that any higher-quality, relevant evidence exists here. Nonetheless, its brief announces without qualification that gender identity therapy "lead[s] to adverse outcomes like emotional distress, loss of relationships, and low self-worth." Br. 18. Yet again, APA's own 2022 book said that there was no "empirical base supporting" a conclusion of "harm" from gender identity change therapies.[69]

APA's cited studies confirm why APA's book rejected what its brief now claims. APA's (and Colorado's, BIO 6) lead study expressly disclaimed any "determination of causation," relied on self-reported responses to poorly-worded questions, ignored any differences in therapies, and failed to control for relevant variables, including baseline mental health.[70] APA's only other "study," the 2015 U.S. Transgender Survey, was a non-randomized, anonymous online survey with no statistical analysis—much less proof of causation.[71] Tellingly, more rigorous studies with in-

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[69] Rivera & Pardo, *Gender Identity Change Efforts*, in *Case Against Conversion "Therapy," supra* note 65, at 62.

[70] Turban, *Association Between Recalled Exposure to Gender Identity Conversion Efforts and Psychological Distress*, 77(1) JAMA Psychiatry 68, 75 (2020); see generally D'Angelo, *One Size Does Not Fit All*, 50 Arch. Sexual Behavior 7 (2021).

[71] James, *Report of the 2015 U.S. Transgender Survey* 26, 35, Nat'l Ctr. for Transgender Equality (Dec. 2016), https://perma.cc/FA4E-DHUQ.

person interviews that *supported* change therapy have been retracted as not "credible." Pet.116a n.20 (Hartz, J., dissenting). Presenting "highly confounded association[s] as causation is a serious error, given its potential to dangerously misinform and mislead clinicians, policymakers, and the public."[72]

In sum, around 2000, "[c]onsensus among mainstream psychologists seemed to be that because the APA is [purportedly] a professional organization and not an advocacy organization, it was unlikely to prohibit conversion therapy in the absence of controlled studies indicating harm."[73] Those studies still do not exist, especially about talk therapy. Yet APA eagerly endorses Colorado's ban. That's because APA is now—and has long been—an advocacy organization in which science plays second fiddle.

3. APA's harm analysis lacks context and contradicts its embrace of sterilizing hormones and surgeries.

APA's brief also fails to define harm or explain its role in clinical decisionmaking. And the analysis it provides cannot be squared with its argument favoring medical gender transition of children, where APA relegates *certain* harms to mere "side effects" that could be disregarded by "informed consent" from a child. If a child can consent to genital surgeries or

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[72] D'Angelo, *supra* note 70, at 11.

[73] Hancock & Haldeman, *APA's Guidelines for Psychological Practice With Lesbian, Gay, and Bisexual Clients and Sexual Orientation Change Efforts*, in *Case Against Conversion "Therapy," supra* note 65, at 134.

their chemical equivalent—as APA fervently believes—how could the principle of "do no harm" (Br. 21) preclude consent to *talk* therapy without any physical risks? APA has no answer.

Of course, practically no psychological—or medical—treatment is immune to *some* potential risk. Take it from APA, which told this Court in *Skrmetti* that "standards of care require that evidence certainty and quality are appropriately weighted against the balance of benefits and harms."[74]

To decide this balance, an appropriate understanding of harms and their likelihood is necessary. But APA does not even define what "harm" means here. APA's report found "no good measures of effectiveness or harm," so it "had no occasion to weigh them against one another and determine whether [talk] therapy should be prohibited." Pet.119a (Hartz, J., dissenting).

Trying to justify its evidence-free concern with hypothetical harms from talk therapy, APA's brief suggests that "the lack of recent scientifically-valid efficacy studies on the broad range of [therapies] used in recent decades is due in part to the ethical barriers to such research." Br. 8. According to APA, these therapies should not *ever* be "studied" "because they may cause harm to patients." *Id.* at 24 (emphasis omitted).

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[74] Brief of APA et al. as *Amici Curiae* 31, *Skrmetti*, 2024 WL 4101400 (U.S. Sept. 3, 2024) ("APA *Skrmetti* Br."); see *id.* at 26 ("all medications may have side effects").

But APA's brief again contradicts its 2009 report, which said that "many of the problems" with existing literature "were avoidable," like "(a) inappropriate use of statistical tests, (b) poor measurement, and (c) designs that did not permit valid causal conclusions to be drawn." Report 90. APA's report also refutes assuming harm to justify the absence of research, explaining that assessing harms first "is a high priority." *Id.* at 91. And it makes no difference *why* there is a lack of valid research; the point is that a lack of valid research would preclude any organization interested in scientific evidence from making the sweeping claims APA's brief does. Last, "witness the[] new circular, 'intellectually lazy,' and 'dishonest' method" of medical interest groups: "design evidence-free ideological guidelines, then use those guidelines as a shield against trying to obtain evidence." FRC *Skrmetti* Br. 27 (emphasis omitted) (quoting *Blind Spots*, *supra*, at 220). "[T]he logic of this argument is something Lewis Carroll would love." Pet.122a n.26 (Hartz, J., dissenting).

APA's supposed concern with harm is also hard to credit given its advocacy of medically transitioning children. APA has no problem forging ahead with sex hormones and surgeries to transition children, despite "the absence of scientifically valid studies of efficacy showing safety" "and in the presence of retrospective reports of harm." Br. 19.[75] In *Skrmetti*, APA waved

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[75] See, *e.g.*, HHS Review 96 (explaining that medical transition interventions "produce certain physical and physiological effects[,] and there is considerable uncertainty regarding their psychological and long-term health outcomes").

away proven risks of harm to children—including permanent sterilization and sexual dysfunction—on the ground that providers can "weigh the risks and benefits for each patient, and obtain informed consent, as with any other medical treatment."[76] APA hung its hat on informed consent—"including informed parental consent for patients under 18"—reasoning that adolescents can "ha[ve] the emotional and cognitive maturity required to provide informed consent/assent."[77] (Pay no heed that APA told this Court in advocating against the death penalty that adolescents have "[d]evelopmentally immature decision-making, paralleled by immature neurological development."[78]) Here—for talk therapies that will *not* involve permanent sterilization or any other near-certain physical harms—APA never *mentions* informed consent. Rather, APA says that "client autonomy or self-determination" can never justify talk therapy, as that would "abdicate[] the responsibility of [providers]."[79]

Similarly, in *Skrmetti*, APA said that withholding cross-sex hormones and surgeries on minors would violate ethical principles by "requir[ing]" providers to "ignore or disregard clients' desires."[80] Though the

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[76] APA *Skrmetti* Br. 23.
[77] *Id.* at 15, 24.
[78] Brief for APA et al. as *Amici Curiae* 2, *Roper* v. *Simmons*, No. 03-633, 2004 WL 1636447 (U.S. July 19, 2004); see also Jones, *The Façade of Medical Consensus*, 2025 Harv. J. L. & Pub. Pol'y Per Curiam 1, 6–8.
[79] Br. 28; see Glassgold, *supra* note 65, at 44 (asserting "inability" of "children and youth" "to provide informed consent").
[80] APA *Skrmetti* Br. 30–31.

state law *here* would require therapists to disregard their clients' wishes, APA takes the opposite view: "[t]he concept of self-autonomy with respect to minors," APA declares, "is simply wrong." Br. 28.

Of course, APA's arguments in this case and *Skrmetti* share a common theme: distorting the scientific literature. In both cases, APA pretends that individual, flawed studies foreclose scientific debate, misrepresenting the body of evidence. While APA said below and in *Skrmetti* that "[a] myriad of studies demonstrate that gender-affirming care leads to positive outcomes," Br. 27; see APA *Skrmetti* Br. 23 ("[m]ultiple studies"), the "overarching theme" of all the systematic reviews on medical interventions "is the lack of high-quality evidence" supporting them.[81] According to the United States, "Every public health authority that has conducted a systematic review of the evidence has concluded that the benefit/risk profile of [pediatric medical transition] is either unknown or unfavorable."[82]

But APA ignored those systematic reviews in *Skrmetti*, just as it ignores that its *own* systematic review here found that the "'complete lack' of 'rigorous recent prospective research'" foreclosed conclusions about potential harm. *Otto* v. *City of Boca Raton*, 981 F.3d 854, 868–69 (CA11 2020).

On the Cass Report, one therapist reprimanded for posting about that report said "that the American

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[81] Miroshnychenko, *Gender Affirming Hormone Therapy*, 110(6) Arch. Disease Childhood 437, 443 (2025).
[82] HHS Review 77; see generally *id.* Chapter 5.

Psychological Association should 'gather its integrity and put out a statement that says we're taking the Cass [R]eport seriously.'"[83] But APA dismisses that report on the ground that "gendered systems and healthcare in European countries are vastly different" (Br. 28)—as if that has anything to do with the Cass Report's *six* systematic reviews showing that the worldwide evidence refutes APA's position.

Remarkably, APA also claims that the Cass Report has led the United Kingdom "to *expand* and *strengthen* gender-affirming care for youth." *Ibid.* But the UK "strengthened" care for gender dysphoria by *prohibiting* the "affirming" interventions that APA demands. The UK prohibited puberty blockers in new patients, Scotland prohibited both puberty blockers and cross-sex hormones, and the talk therapy that APA dislikes "is now the recommended first-line treatment" across Europe.[84]

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APA echoes Colorado and the decision below in demanding the outsourcing of medical regulation—and constitutional law—to the "consensus" of major (American) medical organizations. Br. 24; see also BIO 29; Pet.67a–68a. On APA's view, if that "consensus" wants dangerous interventions—like sterilizing hormones and genital surgeries in *Skrmetti*—the

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[83] Block, *Gender Medicine in the US* 1, BMJ (May 23, 2024), https://perma.cc/R6XS-4JSB.

[84] *New Restrictions on Puberty Blockers* (May 29, 2024), https://perma.cc/E3LR-XCEP; *Cass Review: Implications for Scotland* (July 5, 2024), https://perma.cc/9LYB-LV7N; HHS Review 249.

Constitution must be read to force States to allow them. If that "consensus" opposes certain interventions—like talk therapies here—the Constitution must be read so States can outlaw them. Neither the histories of science and medicine nor APA's suspect statements justify such extraordinary deference. APA's positions in this area are based on ideology, not science. "[A]nyone who has had faith in the pronouncements of the American Psychological Association" "and its partners on the subject should . . . view those pronouncements with skepticism." Pet.124a n.27 (Hartz, J., dissenting).

II. APA's approach, mandated by Colorado, harms children by preempting exploratory therapy about issues like trauma.

Exploratory therapy—also known as talk therapy—"is the least invasive intervention for addressing psychological distress, regardless of its etiology, and it has been recognized as the international standard of care for a wide range of mental health diagnoses."[85] This type of therapy "is a patient-centered process which aims to explore, understand and address the multiple, intersecting factors generating distress in the young person's life."[86] Though high quality evidence is rare here, studies suggest that exploratory therapy for gender dysphoria "may effectively resolve the condition noninvasively."[87] And systematic reviews have found

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[85] HHS Review 250.
[86] Ayad, *A Clinical Guide for Therapists* 3, Gender Exploratory Therapy Ass'n (2022), https://perma.cc/7DGZ-RPAH.
[87] HHS Review 254.

that "there is no reliable evidence to suggest that" this therapy "is harmful."[88]

But laws like Colorado's—aided by APA's ideological enforcement—force therapists to stop offering this beneficial therapy. Colorado has suggested that its ban's vague exception—for therapy that provides "acceptance, support, and understanding for the facilitation of an individual's coping, social support, and identity exploration and development"[89]—could permit some talk therapy. But the exemption does not apply if "the counseling" *could* seek "to change behaviors or gender expressions."[90] So the ban at minimum applies when a person seeks talk therapy potentially to "meet voluntary, self-selected goals" of aligning gender expression or identity with sex. Pet.23a. And Colorado's allies routinely equate exploratory therapy with conversion therapy.[91] Any therapist in Colorado who offers talk therapy without immediate "acceptance" and affirmation puts their career at risk.

Denying children access to talk therapy will harm them by foreclosing consideration of underlying issues—often childhood trauma—that can give rise to both gender dysphoria and other mental health issues.

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[88] *Id.* at 255.
[89] Colo. Rev. Stat. § 12-245-202(3.5).
[90] *Ibid.*
[91] HHS Review 255 & n.80; see *id.* at 35–36; see also Burga & Schneid, *New HHS Report Urges 'Exploratory Therapy,'* TIME (May 1, 2025) (Trevor Project spokesperson: "exploratory therapy" is "conversion therapy" "under a new, rebranded name").

And it will result in children being prematurely ushered into medical transitions that lack any proven benefit and carry the certainty of lifelong harms.

A. Colorado's law and APA's ideological enforcement lead to self-censorship.

By throwing its weight behind laws like Colorado's, APA will deprive children of beneficial exploratory therapy. As HHS recently explained, "[a]ctivist organizations" like APA and others have increasingly "target[ed] individuals and groups that question or critically examine prevailing practices in gender medicine."[92] Like others noted above, "[a] clinical psychologist who describes herself as 'a liberal feminist' and who has 'marched in Pride marches'" said "she was 'reprimanded' by the Illinois Psychological Association after posting about the Cass Review on a therapist listserv."[93] "[T]he political activist group Southern Poverty Law Center" has encouraged "efforts to 'hunt' therapists who practice exploratory therapy, with the goal of leveling complaints leading to licensure revocations."[94]

Similarly, APA's (and Colorado's) description of exploratory therapy as "conversion therapy" is "a problematic and potentially harmful rhetorical device" to shame therapists by connecting talk therapy with physically coercive interventions to change sexual orientation.[95] But talk therapy "resides outside the

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[92] HHS Review 209.
[93] *Id.* at 204 (quoting Block, *supra* note 83, at 2).
[94] *Id.* at 209 n.29.
[95] *Id.* at 256.

affirmation-conversion binary and aims to address the distress of gender-dysphoric youth" rather than "force change or impose any predetermined notion."[96] It may "help children and adolescents come to terms with their bodies."[97] If anything, the *affirming* approach to gender dysphoria better "deserves th[e] label" of "conversion therapy," as that approach requires "altering a person's body in response to distress rooted in internalized social disapproval."[98] But Colorado and APA misuse this label for its *in terrorem* effect, putting therapists' "careers and reputations" in "jeopard[y]."[99]

Unsurprisingly, given all this pressure by both states and professional organizations like APA, "there is growing evidence of self-censorship among clinicians and researchers, driven by concerns about professional repercussions and reputational risks."[100] As HHS explained, "Medical professionals' years of training and social status leave them acutely aware of and sensitive to reputational risks."[101] "Fear of online attacks and social disapproval within professional medical societies may have contributed to widespread self-censorship among clinicians."[102] This effect is magnified by framing "affirmation" "as a civil rights issue" and skeptics as "'anti-trans' or intolerant."[103]

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[96] *Id.* at 256 n.83.
[97] *Id.* at 256.
[98] *Ibid.*
[99] *Id.* at 257 & n.88.
[100] *Id.* at 210.
[101] *Ibid.*
[102] *Ibid.*
[103] *Ibid.*

The result? "[P]arents everywhere report that open-minded, developmentally oriented, not immediately affirmative therapists are hard to locate"—which deprives many children of beneficial therapy.[104]

B. This censorship harms children.

As researchers and HHS have explained, "[s]tigmatizing non-'affirmative' psychotherapy" for gender dysphoria and similar issues "as 'conversion' will reduce access to treatment alternatives for patients."[105] Given "the highly charged accusation of 'conversion therapy,'" many therapists are "under significant pressure to assume—often without critical evaluation—that mental health issues co-occurring with [gender dysphoria] are primarily the result of minority stress."[106] Thus, they may "overlook the significant possibility" that gender dysphoria "has *arisen from* trauma, 'primary' mental health concerns, or neurodevelopmental conditions."[107]

"If these possibilities are ignored, medical and surgical interventions may be recommended as the obvious treatment"[108]—even as the therapy necessary for "meaningful informed consent" is denied.[109] All this will have "a chilling effect on the ethical

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[104] Levine, *What is the Purpose of the Initial Psychiatric Evaluation of Minors with Gender Dysphoria*, 50(6) J. Sex & Marital Therapy 773, 781 (2024).
[105] D'Angelo, *supra* note 70, at 7.
[106] HHS Review 258.
[107] *Ibid.*
[108] *Ibid.*
[109] D'Angelo, *supra* note 70, at 13.

psychotherapists' willingness to take on complex [gender dysphoria] patients, which will make it much harder for [these] individuals to access quality mental health care."[110]

1. Colorado's ban discourages therapists from exploring trauma and other co-occurring mental health issues.

Gender dysphoric youth "often present[] with complex psychosocial histories and multiple mental health concerns," which is why proper therapy for this population "takes a holistic approach—addressing the full range of issues rather than focusing exclusively on" gender dysphoria—or immediately "affirming" a new identity.[111] Exploratory therapy "for adolescents with [gender dysphoria] is a well-suited intervention, as it is intended to help patients develop self-understanding, engage with emotional vulnerability, and build practical strategies for managing distress."[112]

This holistic approach is especially important because many of those who identify as transgender report past trauma, like childhood sexual abuse.[113] "Trauma affects how children and adolescents process the world around them, how they interact and engage in relationships," and how they "perceive their own

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[110] HHS Review 259 (quoting D'Angelo, *supra* note 70, at 13).
[111] *Id.* at 260.
[112] *Ibid.*
[113] See, *e.g.*, Meyer, *LGBTQ People in the US* 3 (June 2021), https://perma.cc/B2TG-RPQC.

bodies."[114] Trauma symptoms can manifest as thoughts, emotions, or actions that may appear unrelated to a traumatic event. Many of these symptoms can be similar to those experienced by individuals who identify as transgender. These symptoms include mental health conditions like depression, aggression, low self-esteem, suicidal ideation, and identity confusion.

This overlap makes it especially important to explore potential trauma and any other co-occurring mental health issues that may be contributing to—or being masked by—gender dysphoria. "Children do not generally disclose trauma on initial assessment"; they "must experience safety within the therapeutic relationship, which takes time and patience to establish."[115] But Colorado's law bans a holistic therapeutical approach in favor of one that prioritizes immediate affirmation.

Several researchers and clinicians have illustrated the problem with "[t]he self-evident crudeness of the [change therapy] versus 'affirmation' binary" pushed by APA and codified by Colorado.[116] "Consider a female victim of sexual assault, who subsequently develops an intense discomfort with her female anatomy and expresses a desire to undergo biomedical interventions to change her body."[117] "It would be

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[114] Corrected Expert Report of G. Nangia ¶ 136, *Boe* v. *Marshall*, No. 22-184, Dkt. 557-11 (M.D. Ala. May 27, 2024) ("Nangia Rep.").
[115] *Id.* ¶ 141.
[116] D'Angelo, *supra* note 70, at 11.
[117] *Ibid.*

unethical for the clinician to overlook the contribution of sexual victimization to this nascent [gender dysphoria]."[118] "A therapist enthusiastically supporting this patient's new male identity would be failing to provide appropriate treatment for what amounts to a post-traumatic condition, instead providing an inappropriate treatment with the potential to harm"—as discussed next.[119]

"Similarly, a boy who has been traumatized by relentless bullying due to his gender 'nonconformity' (e.g., interest in classical music or fashion and avoidance of sports) may conclude that if he were a girl then he would 'fit in' and the humiliation would stop."[120] "In this case too, gender-affirming interventions miss the mark when what this traumatized young person requires is psychotherapy"—the holistic therapy that Colorado law bans.[121] By banning this therapy, Colorado will deprive vulnerable children of the chance to have underlying traumas aired and addressed.

2. Banning talk therapy will usher children to dangerous medical transitioning.

According to APA itself, "[i]n no more than about one in four children does gender dysphoria persist from childhood to adolescence or adulthood"—absent

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[118] *Id.* at 11–12.
[119] *Id.* at 12.
[120] *Ibid.*
[121] *Ibid.*; see also Nangia Rep. ¶ 147.

medical interventions.[122] Banning talk therapy and requiring affirmation, however, presents a real danger of locking children into an identity that they would have otherwise considered and then moved away from. As the Cass Report found, clinicians "are unable to determine with any certainty which children and young people will go on to have an enduring trans identity."[123] Harm will result from early "affirmation" of individuals who would otherwise have returned to their original identity. Thus, affirmation is not a neutral or necessarily positive intervention, but can detrimentally change the child's natural developmental trajectory. Colorado is imposing its own vision of how a child should develop.

"Affirmative" therapy "focus[es] on the patient's readiness for gender transition"—unlike the exploratory therapy that Colorado bans, which focuses "on identifying the predisposing, precipitating, and maintaining forces on the patient's identity."[124] Thus, the goal of the "affirmative" model is "to qualify the patient for the sequence of social transition, hormones, and surgery."[125] "[O]ften by the second visit" to an "affirming" therapist, "a prescription for hormones is given or surgery is scheduled."[126]

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[122] Bockting, *Transgender Identity Development*, in 1 *APA Handbook of Sexuality and Psychology* 744 (Tolman & Diamond eds., 2014).
[123] Cass Report 22.
[124] Levine, *supra* note 104, at 774–75.
[125] *Id.* at 773.
[126] *Id.* at 776.

Indeed, in current practice, this sequence from social transition to drugs to surgeries has no brakes. As HHS recently explained, several studies "suggest[] the majority of children who socially transition before puberty progress to medical interventions."[127] These interventions often start with puberty blockers. While puberty blockers have been defended as a "pause" button, the United States now expresses "considerable concern that pubertal suppression may alter the course of gender identity development, essentially 'locking in' a gender identity that may have reconciled with biological sex during the natural course of puberty."[128] "Several studies have suggested continuation rates from [puberty blockers] to [cross-sex hormones] exceed 90%," making blockers "more like a 'gas pedal' that accelerates medical transition."[129]

Affirmation is thus likely to usher children to irreversible, unproven, and sterilizing sex hormones—and eventually surgeries. Children who take puberty blockers then cross-sex hormones—the near-universal transitioning pathway—are expected to become sterile and suffer many other negative repercussions. See generally *Eknes-Tucker* v. *Governor of Alabama*, 114 F.4th 1241, 1260–61, 1268–70 (CA11 2024) (Lagoa, J., concurring).

Thus, some children will be permanently harmed by unblinking affirmation, as they will suffer "irreversible hormonal and/or surgical interventions [and] ultimately [will] not continue to identify as

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[127] HHS Review 71.
[128] *Id.* at 70–71 (internal quotation marks omitted).
[129] *Id.* at 71.

transgender."[130] The approach advocated by APA and codified by Colorado leads to that outcome—destroying the lives of vulnerable youth.

CONCLUSION

The Court should reverse.

Respectfully submitted,

CHRISTOPHER E. MILLS
Counsel of Record
Spero Law LLC
557 East Bay Street
#22251
Charleston, SC 29413
(843) 606-0640
cmills@spero.law

Counsel for *Amici Curiae*

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[130] HHS Review 71–72.