

No. 24-539

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

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KALEY CHILES,

*Petitioner,*

*v.*

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

*Respondents.*

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ON WRIT OF CERTIORARI TO THE UNITED STATES  
COURT OF APPEALS FOR THE TENTH CIRCUIT

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**BRIEF OF *AMICUS CURIAE* ASSOCIATION  
OF CERTIFIED BIBLICAL COUNSELORS  
IN SUPPORT OF PETITIONER**

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MICHAEL S. OVERING  
*Counsel of Record*  
EDWARD C. WILDE  
ITZEL MORALES  
OVERING MORALES PROFESSIONAL LAW  
CORPORATION  
790 East Colorado Boulevard, Suite 320  
Pasadena, CA 91101  
(626) 564-8600  
movering@overingmorales.com

June 2025

*Counsel for Amicus Curiae*

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## INTEREST OF AMICUS CURIAE<sup>1</sup>

The Association of Certified Biblical Counselors (“Amicus”) represents a group of Christian counselors across the globe who provide counseling and training consistent with the traditional practice of the Christian religion. Its members counsel minors, including on subjects such as gender, marriage, and sexuality. In general, Amicus teaches chastity; that marriage is between a man and a woman; that one should not medically alter his or her body to conform to perceived “gender identity.” Amicus recognizes that these beliefs, while once commonplace, are now matters of great contention. Amicus does not seek the right to prohibit anyone else’s speech or belief. It seeks merely protection for the right to speak its religious viewpoint. Both Amicus and Christian minors have a constitutional right to speech and belief.

## INTRODUCTION AND SUMMARY OF THE ARGUMENT

It would be unsurprising to hear a Biblically informed counselor say, “One should not have sexual relationships outside of marriage;” Or, “do not use medical treatment to alter the sexual characteristics of your body.” Or any number similar precepts that have “long ... been held—and continue[] to be held—in good faith by reasonable and sincere people here and throughout the world.” *Obergefell*

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1. In accordance with Rule 37.6, counsel affirms that no counsel for any party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than the amicus curiae made a monetary contribution to its preparation or submission.

*v. Hodges*, 576 U.S. 644, 657 (2015). But Colorado has defined statements like these to be “harmful.” And, Colorado has enacted the “Kelly Loving Act” which makes speech on these topics *even by a parent* to her child a matter of “abuse.” See, HB25-1312, 75th General Assembly, State of Colorado (2025). Thus, Colorado has “found” that the religious practice facilitated and taught by Amicus and its affiliates around the globe is both “harmful” and “abusive.”

Colorado’s law discriminates based on viewpoint. The way in which it defines “harm,” “abuse,” and the like, is blatantly targeted. It singles out the Christian worldview on certain topics because Christianity is seen as the primary cultural impediment to the “acceptance” of the sexual behavior at issue. Colorado couches its position as scientific, but it is perhaps better characterized as “religious.”<sup>2</sup> If “[d]ecisions about whether [or not] to ‘express and inculcate religious doctrine’ through ... education” can be “fundamentally theological choices driven by the content of different religious doctrines,” so too for counseling, therapy, and the like. *Catholic Charities Bureau v. Wisc. Labor & Industry Rev. Comm’n*, No. 24-154 (U.S. June 5, 2025) (slip op., at 12). While Colorado is generally free to reasonably regulate professional conduct (Salazar, “Brief in Opposition, 1” “BIO”) the First Amendment forbids such regulation if pursued to subordinate and oppress a religious worldview in conflict with its own.

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2. Paul C. Vitz 2001. *Psychology as Religion : The Cult of Self-Worship*. Grand Rapids, Mich.: W.B. Eerdmans Pub. Co., 2.



## ARGUMENT

### I. COLORADO LAW EMBRACES VIEWPOINT DISCRIMINATION.

It is impossible to properly consider the laws and the speech at issue without considering the religious context in which they arise. First, matters of bodily integrity and human sexuality concern fundamental elements of the Christian faith. They have been topics of concern for Christians and Christian teaching for millennia.<sup>3</sup> Second, the American Psychological Association (hereinafter, “APA”) has identified Christians as (among) those who principally oppose same-sex sexual behavior and transgender identity. Third, Colorado’s advocacy of a particular vision for human sexuality is a religious orientation. The law may not expressly “support a particular sexual orientation or gender identity outcome,” BIO.30, but it might as well—the State has determined that some nebulous risk of “harm” outweighs any virtue in traditional teachings on sex and gender. Thus, the contention that this dispute concerns “science” versus “religion” is inaccurate. *Contra, e.g.*, BIO.6 (citing the “weight of scientific evidence”). Colorado has established its own religious worldview and requires compliance on these topics, and the Minor Conversion Therapy Law (MCTL).

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3. See, e.g., Wilson, Todd A., *Mere Sexuality: Rediscovering the Christian Vision of Sexuality* (Zondervan 2017). The Second Century Apologist Justin Martyr, when explaining Christianity to the Emperor, wrote, “we who formerly delighted in fornication, but now embrace chastity alone.” Justin Martyr, *The First Apology of Justin*, in Alexander Roberts, James Donaldson, and A. Cleveland Coxe, vol. 1, *THE ANTE-NICENE FATHERS* 167 (Buffalo, NY: Christian Literature Company, 1885).

It must be conceded that if Colorado acted out of religious animus, or even if Colorado merely intended to affect particular religious practice, such a law would infringe upon First Amendment protections. *Masterpiece Cakeshop, Ltd. v. Colo. Civil Rights Comm’n*, 584 U.S. 617 (2018); *Chiles v. Salazar*, 116 F.4th 1178, 1224 (10th Cir. 2024). To avoid this contention, the lower court rejected any notion of *religious* hostility, finding that Colorado was motivated by “science.” *Chiles v. Salazar*, 116 F.4th 1178, 1218 (10th Cir. 2024).

**A. The Speech at Issue Expresses a Religious Viewpoint, and So Does Its Suppression.**

1. While the argument is staged as “science” vs. “religion,” this Court should be skeptical. These categories have never been so neatly divided,<sup>4</sup> and yet the conflict on this particular area of speech is seen popularly as one which exists exclusively as a matter of religious preoccupation: “Amsterdam is the birthplace of LGBT rights, as is pre-Christian Rome. It is Europe’s destiny to carry the torch of progress.”<sup>5</sup> Elite sociologists observe, “It is religious (mainly conservative Christian) individuals *claiming* they have been wronged” by this progress.<sup>6</sup> If

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4. See, e.g., B R Hergenhahn, and Tracy B Henley. 2014. *An Introduction to the History of Psychology*. 7th ed. Belmont, Ca, Usa: Wadsworth Cengage Learning, 161) (“Comte was discussing positivism as if it were religion. To him, science was all that one needed to believe in and all that one should believe in.”).

5. Mariska den Eelden, X.com (May 17, 2025), [x.com/eeldenden/status/1923706168213414011](https://x.com/eeldenden/status/1923706168213414011).

6. Emily Kazyak, Kelsy Burke, Maia Behrendt, and Marissa Oliver. 2024. Review of *Religious Exemption, LGBT Rights, and*

only they'd realize, as Yuval Noah Harari recently put it, that "[n]othing in nature has a purpose and nothing that exists is unnatural. Happy International Day Against Homophobia, Biphobia and Transphobia. #Darwin."<sup>7</sup>

"Religious" does not mean "not science;" nor is everything that purports to be "science" bereft of a religious character. Williams James wrote extensively on religion and proffered the following definition: "the feelings, acts, and experiences of individual men in their solitude, so far as they apprehend themselves to stand in relation to whatever they may consider the divine." William James, *The Varieties of Religious Experience* 42 (Macmillan Publishing 1961). He was careful to avoid either an ecclesiological structure or even a deity as a necessary element of "religious." *Id.* at 40-43. See, *Psychology of Religion*, APA Dictionary of Psychology, <https://dictionary.apa.org/psychology-of-religion>.

This Court has held that the free exercise of religion need not involve belief in a deity, *United States v. Seeger*, 380 U.S. 163 (1965). The Court has equated "moral" or "ethical" convictions with "religious" convictions, in affirming the "conscientious objector" status of a man who did not hold theistic beliefs but was "spurred by deeply held moral, ethical, or religious beliefs." *Welsh v. United States*, 398 U.S. 333, 344 (1970).

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*the Social Construction of Harm*, 49 *Law & Social Inquiry* 980, 984 (2024)

7. Yuval Noah Harari, X.com (May 17, 2025), [x.com/harari\\_yuval/status/1923758230645190798](https://x.com/harari_yuval/status/1923758230645190798). "The invasion of technique desacralizes the word in which we man is called to live. For technique nothing is sacred." Jacques Ellul, *THE TECHNOLOGICAL SOCIETY* 142 (trans. John Wilkinson; Vintage Books 1964).

2. To see that Colorado’s law takes a religious stance, one need look no further than the face of the law. The speech it seeks to regulate is that between counselor or therapist and a minor on topics of gender, marriage, sexuality, and sexual relations. Naturally, the questions that may arise in that context include whether, or with whom, a minor should have sexual relations; whether there is an “I” somehow separate from the body such that I could *believe* that I was born in the “wrong” body, or that my body must be changed; whether one’s sex is male or female or instead lies somewhere on a “spectrum,” socially or personally constructed. These topics certainly involve “deeply held moral, ethical, or religious beliefs.” *Id.*<sup>8</sup> And they raise profound questions—what is good or bad, right or wrong, virtuous or vicious, sinful or not, natural or disordered—questions which have traditionally been answered by *religious* beliefs.<sup>9</sup>

Christianity, for example, has always found matters of the human body and human sexuality to be fundamental to the religion. The Apostle Paul is recorded to have stirred an incredulous response in Athens when he spoke of a *bodily* resurrection.<sup>10</sup> Athanasius was a great contender for the Son of God having become incarnate, “For what is there monstrous or worthy of mockery in

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8. As the Court has held, these “intimate” matters concern the “concept of existence, of meaning, of the universe, and of the mystery of human life.” *Lawrence v. Texas*, 539 U.S. 558, 574 (2003).

9. Rob Clucas “Sexual Orientation Change Efforts, Conservative Christianity and Resistance to Sexual Justice.” *Social Sciences*, vol. 6, no. 2, May 2017, p. 54.

10. Acts 17:31-32.

our position? Is it indeed because we say that the Word has been manifested in a body?”<sup>11</sup> For the Christian, the human body *qua* human body has value. As a result of that premise, what is done with and to the body presents matters of grave importance. That human beings were “created male and female”<sup>12</sup> marks the introduction of theological anthropology.<sup>13</sup> Chastity and promiscuity have a natural religious valence, such that even new religions and religious movements invariably end up with their own teachings on these subjects.<sup>14</sup>

But organizations like the APA have endeavored for decades to remove the religious from the discussion, on the conceit that psychologists can dictate the answer to such moral claims by relegating religious acts to “behavior” and thus, “science.” It is these organizations who provide the intellectual cover for Colorado’s law. The State defended its law on the ground that the APA and other groups had conducted (or considered) a “systematic review of th[e] evidence.” BIO.6. But is that a fair description of what the APA did?

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11. Athanasius of Alexandria, *Athanasius: On the Incarnation of the Word of God*, trans. T. Herbert Bindley, Second Edition Revised (London: The Religious Tract Society, 1903), 118.

12. Genesis 1:17.

13. For a more extensive instance of human sexual polarity being fundamental to Christian belief, see, e.g., Paul King Jewett & Marguerite Shuster, *WHO WE ARE : OUR DIGNITY AS HUMAN : A NEO-EVANGELICAL THEOLOGY* 131-350 (Grand Rapids, Mich.: Eerdmans 1996).

14. : “Sex shapes new religions....Sex haunts new religions.” James R Lewis, Inga Bårdsen Tøllefsen. 2016. *The Oxford Handbook of New Religious Movements. Volume II*. New York: Oxford University Press, 303.

Putting aside the reliance on weak evidence, questionable practices, and fraud that plague the field generally,<sup>15</sup> the APA has been outright hostile toward religion. In 2007, the APA announced a “Resolution” declaring that “faith traditions have no legitimate place arbitrating behavioral or other sciences,” the APA Council of Representatives resolved. APA, *Resolution on Religious, Religion-Based And/or Religion-Derived Prejudice* (Aug. 16, 2007), [apa.org/about/policy/religious-discrimination.pdf](http://apa.org/about/policy/religious-discrimination.pdf). While this Court admits that “uncertainties about the human mind loom large,” *Kahler v. Kansas*, 589 U.S. 271, 280 (2020), the APA is certain that religion cannot provide the answers. So certain, in fact, that disagreeing with the APA constitutes “harm.” The Resolution continues, “The right of persons to practice their religion or faith does not and cannot entail a right to harm others or to undermine the public good.” APA, *supra* at 1. Disagreement becomes “prejudice”; religious practice, “harmful discrimination.” *Id.* at 2. Again, this is the “science,” the intellectual basis for the Colorado law.

The APA elsewhere references Christianity as an opposing force on topics concerning human sexuality (and thus “harmful discrimination”). The APA “explains” that “conversion therapy” is “harmful” and goes so far as to say that those with religious objections simply misunderstand their own religion. *See* APA, *THE CASE AGAINST “CONVERSION THERAPY”* 115 (Douglas C. Haldeman, ed. 2022) (“Haldeman”). The APA calls those

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15. *See, e.g.*, Chris Chambers, *THE SEVEN DEADLY SINS OF PSYCHOLOGY: A MANIFESTO FOR REFORMING THE CULTURE OF SCIENTIFIC PRACTICE* (Princeton UP 2017); Sarah C. Cook, Ann C. Schwartz, & Nadine J. Kaslow, *Evidence-Based Psychotherapy: Advantages and Challenges*, 14 *Neurotherapeutics* 537 (July 2017).

who disagree “Zealots [who] tend to ignore texts that contradict their claims.” *Id.* at 114. The APA’s brief before the 10<sup>th</sup> Circuit asserted such counsel, even for those who desired such Christian counsel, was harmful (APA Brief 15-16). The APA knows best, calls it science, and with Colorado’s help can enforce its tenets.

This *religious argument* is regularly used in psychological literature to contend that “*true*” Christianity<sup>16</sup> does not hold to such “harmful” disagreement with the APA.<sup>17</sup> Of course, “there *have* been efforts” by some to “support gay rights under the banner of Christian social justice.”<sup>18</sup> But when the APA and its ilk wade into debates on Christian social teaching, their participation reflects not only their animus, but a religious worldview. It’s not science, and when adopted by the government,

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16. This argument has its roots in Freud and Marcuse contending against the “repression” of Christianity and “the gospel of Agape-Eros” which must entail the eradication of the “Father” and family. Marcus is quite explicit on these points. Herbert Marcuse. 1955. *EROS AND CIVILIZATION*, p. 69, et seq; 96 (“the technological abolition of the family”), et seq.

17. See, e.g., Dag Øistein Endsjø (2020) “The other way around? How freedom of religion may protect LGBT rights,” *The International Journal of Human Rights*, 24:10, 1681, DOI: 10.1080/13642987.2020.1763961 That religious beliefs lie at the heart of most of the opposition to LGBT rights is a generally known fact. ... It is, indeed, difficult to identify formal restrictions of fundamental LGBT rights that are not, directly or indirectly, related to religious beliefs.”). See, e.g., Tricia Sheffield. 2008. “Performing Jesus: A Queer Counternarrative of Embodied Transgression.” *Theology & Sexuality* 14, no. 3 (January): 233–58. <https://doi.org/10.1177/1355835808091421>.

18. Kazyak, *supra*, at 985 (emphasis added).

it is “textbook denominational discrimination.” *Catholic Charities Bureau v. Wisc. Labor & Industry Rev. Comm’n*, No. 24-154 (U.S. June 5, 2025) (slip op., at 9); *Watson v. Jones*, 13 Wall. 679, 728 (1872) (“The law knows no heresy, and is committed to the support of no dogma.”).

As Philip Rieff has shown, one aim of modern psychotherapeutic practice is to “control ... the unconscious” so as to “eliminate the residues of religious compulsion.”<sup>19</sup> Modern psychotherapy began with Sigmund Freud, who was obsessively driven to box up religion within the confines of psychiatric analysis,<sup>20</sup> as were his acolytes like Carl Jung. But that project was doomed, for among the premises of psychoanalysis is the religious and philosophical idea that there is an “I” other than and separable from the body. That idea finds root in a variety of religious traditions, notably Gnosticism,<sup>21</sup> which Jung famously incorporated into psychoanalytic theory.<sup>22</sup>

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19. Philip Rieff, *THE TRIUMPH OF THE THERAPEUTIC : USES OF FAITH AFTER FREUD* 79 (Isi Books 2007).

20. “Freud considered religious beliefs to be extremely dangerous and harmful both to the individual and to the society.” Robert William Lundin, *ALFRED ADLER’S BASIC CONCEPTS AND IMPLICATIONS* 148 (Taylor & Francis 1989); *see also, e.g. “Totem and Taboo (1913) by Sigmund Freud.”* 2015. *Sigmundfreud.net*. 2015. <https://www.sigmundfreud.net/totem-and-taboo.jsp>.

21. *See*, James M. Robinson 1996. *THE NAG HAMMADI LIBRARY IN ENGLISH*. Leiden: Brill; Carus, Paul. 1898. Review of *Gnosticism in Relation to Christianity*. *The Monist* 8, no. 4: 502–46; MacCulloch, James Arnott. 1912. “The Ascent of the Soul: A Comparative Study in Gnosticism.” *The Irish Church Quarterly* 5, no. 18: 122. <https://doi.org/10.2307/30067221>.

22. The literature in this area is massive. *See, e.g.,* C G Jung, and Robert Alan Segal. 2000. *THE GNOSTIC JUNG*. London:



The belief that there is a self, abstracted from one's body, is a conviction wholly foreign to historic Christianity.<sup>23</sup>

There's no avoiding what the historical and cultural background makes plain: This case is a religious conflict—not just because petitioner raised a Free Exercise claim, *Chiles v. Salazar*, 116 F.4th at 1194, 1221. Colorado's MCTL necessarily makes value judgments about sexuality, gender, even what it means to be human, for which there are no “scientific” answers. There are religious and philosophical ones. Colorado has adopted an essentially nominalist position on human nature, particularly sex, by reducing male or female to identification or social construct<sup>24</sup>, rather than one's nature.<sup>25</sup> To take one example of how this plays

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Routledge; Segal, Robert A. “Jung and Gnosticism.” *Religion*, vol. 17, no. 4, Oct. 1987, pp. 301–36, [https://doi.org/10.1016/0048-721x\(87\)90057-1](https://doi.org/10.1016/0048-721x(87)90057-1). Accessed 30 Oct. 2019.

23. “Thomas Aquinas long ago gave utterance to the substantial truth when he maintained that one and the same principle, namely, the anima, is at once the formative principle of the body and also the anima sensitiva, appetitiva seu motiva; nay more, the anima rationalis sive intellectualis.” D. W. Simon, *RECONCILIATION BY INCARNATION: THE RECONCILIATION OF GOD AND MAN BY THE INCARNATION OF THE DIVINE WORD* (Edinburgh: T. & T. Clark, 1898), 28.

24. Reducing reality to social constructs based on “word games” has its root in Nietzsche's rant against Jesus in *Genealogy of Morals*. Nietzsche, Friedrich. 1968. *BASIC WRITINGS OF NIETZSCHE*. Translated by Walter Kaufmann. New York: Random House, Inc. This is a deliberately anti-Christian invective which undergirds such “science.” See also, Jacques Derrida 1984. *OF GRAMMATOLOGY*. Baltimore Johns Hopkins Univ. Pr., 19, 71.

25. In effect, Colorado has chosen over Ockham over Plato. It is not the place of a Court to enforce a metaphysic by means of

out in practice, consider “dead naming.” Giving a name to another has value. It puts one into a set of relationships. Christianity utilizes the relationships of a family—God the Father, God the Son—and the relationship between Christ and the Church is spoken of in terms of marriage. Christ dies, he is buried and lives again. The Christian dies, is buried (in baptism), and raises with Christ. Rom. 6:4 Dead naming intersects with each element of these relations. One dies to an identity. One resurrects and names oneself. The body is literally “transformed” in a parody of the Christian hope. 1 Cor. 15:51. This is a radical “conversion” experience. Only a naïf could deny the religious elements to the issue of “dead naming.”<sup>26</sup> See, e.g., The Charles NYC. 2019. “The Story of Resurrection Is a Story of Transition - Believe out Loud.” Believe out Loud. February 12, 2019. <https://www.believeoutloud.com/voices/article/the-story-of-resurrection-is-a-story-of-transition/>. This is religious, not scientific language.

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law. Natalie Stoljar,. “Different Women. Gender and the Realism-Nominalism Debate.” *Feminist Metaphysics*, Nov. 2010, pp. 27–46, [https://doi.org/10.1007/978-90-481-3783-1\\_3](https://doi.org/10.1007/978-90-481-3783-1_3); Limin, Jerika, and Mark Dacela. *Ontology of Gender: The Trans Community in the Gender Realism and Gender*. 2017; Rodriguez-Pereyra, Gonzalo. “Nominalism in Metaphysics (Stanford Encyclopedia of Philosophy).”

26. Mercy Aguilar Contreras. 2024. “Epistemology of Bodies as Closets: Queer Theologies and the Resurrection of Martyrized Christo-Morphic Bodies.” *Religions* 15, no. 4 (April): 456–56. <https://doi.org/10.3390/rel15040456>; Mercy Aguilar Contreras. 2024. “Epistemology of Bodies as Closets: Queer Theologies and the Resurrection of Martyrized Christo-Morphic Bodies.” *Religions* 15, no. 4 (April): 456–56. <https://doi.org/10.3390/rel15040456>;

Reviewing Colorado’s religious choices embedded in law, the lower court, too, had to adopt certain moral, religious, and metaphysical assumptions. Following the APA’s playbook, the court below found that *religious* conduct (as would be performed by Amicus) is “harmful” *because* the court placed no stock in (and indeed denigrated) the religious worldview on which such conduct is based. 116 F.4th at 1220. The religious and spiritual value in SOCE or GICE<sup>27</sup> counted for exactly nothing. But that is a religious, not a scientific, position. Accordingly, this case poses a religious conflict about the kind of beliefs that ought not be “formed under the compulsion of the State.” *Lawrence*, 539 U.S. at 574; *cf. Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203, 225 (1963) (“the State may not establish a ‘religion of secularism’ in the sense of affirmatively opposing or showing hostility to religion, thus ‘preferring those who believe in no religion over those who do believe’”).

If Colorado were a natural person, seeking room for its beliefs, it would certainly be successful in contending that its ultimate concerns, even in the absence of the assertion of some divinity, its assertions about human autonomy, sexuality, familial relations, certainty that positions held by other religions were false or ignorant, would easily combine to support a finding of religion.<sup>28</sup>

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27. Joint Appendix, p. 18, fn. 1, “Conversion therapy is also known as sexual orientation change efforts (SOCE) and gender identity change efforts (GICE) and SOGI change efforts.”

28. *Torcaso v. Watkins*, 367 U.S. 488, 495 (1961); *Kaufman v. McCaughtry*, 419 F.3d 678, 681 (7th Cir. 2005) (“a person sincerely holds beliefs dealing with issues of ‘ultimate concern’ that for her occupy a ‘place parallel to that filled by . . . God in traditionally

That’s a religious viewpoint.

**B. Colorado’s Framework of “Harm,” “Safety,” and “Effectiveness” Takes a Stance on Religious Speech.**

1. Colorado has a view about what constitutes “human nature” or “harm.” In this Court, it relies primarily on psychological distress to justify its law. BIO.6. The language of “harm” is often a rhetorical trope and a pretext to infringe upon disfavored speech and religious practice. *See, e.g., Church of Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520 (1993); *Masterpiece Cakeshop*, 584 U.S. 617. But even taking Colorado at its word, behind any harm-based rationale lies a moral proposition on which there can (and should) be great debate protected by the First Amendment.

For example, Christianity does not see all psychological discomfort as bad or something to be avoided. For instance, Gregory the Great explained that repentance must include visible sorrow.<sup>29</sup> The Christian is taught to go *through sorrow and hatred for sin* to obtain relief.<sup>30</sup>

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religious persons,’ those beliefs represent her religion); *Int’l Soc’y for Krishna Consciousness, Inc. v. Barber*, 650 F.2d 430, 440 (2d Cir. 1981); *Africa v. Pennsylvania*, 662 F.2d 1025, 1032 (3d Cir. 1981); *Fallon v. Mercy Catholic Med. Ctr.*, 200 F. Supp. 3d 553, 560 (E.D. Pa. 2016).

29. Thomas C. Oden, *MINISTRY THROUGH WORD AND SACRAMENT, CLASSIC PASTORAL CARE* 152 (N.Y.: Crossroad 1989).

30. *See, e.g.*, “For the acts of repentance are hatred of sin, sorrow for it, resolution to forsake it, and endeavour its ruin.” (David Clarkson, *The Works of David Clarkson*, vol. 2 (Edinburgh:

To adherents of Christianity, these are matters of the greatest consequence, yet they cannot be found in the latest manual on psychotherapy because the work of repentance entails elements which Colorado and the APA designates “harmful,”<sup>31</sup> false, and even absurd.

Take the discomfort of being told one should change, which Freud would catalogue as a misadventure of a Superego. With different nomenclature, modern psychologists engage in something similar. This is an overtly religious position. The Christian, adhering to a different religion than the apparent religion of the Colorado legislature, considers this discomfort the work of conscience to bring one to repentance. It's part of the labor of adhering to faith over ease in life.<sup>32</sup> This doesn't fit well with Colorado's view which is why it cites the APA to justify its actions.

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James Nichol, 1864), 109; Thomas Watson, “The Godly Man's Picture Drawn with a Scripture-Pencil,” in *Thomas Watson*, vol. 1 (Edinburgh; Glasgow: Blackie, Fullarton, & Co.; A. Fullarton & Co., 1829), 384–385.)

31. “It consists in the exercise of repentance, self-loathing, hatred of sin ...” (James Nichols, *Puritan Sermons*, vol. 2 (Wheaton, IL: Richard Owen Roberts, Publishers, 1981), 537; see, also, “Catechism of the Catholic Church - IntraText.” [www.vatican.va/archive/ENG0015/\\_\\_\\_P4A.HTM](http://www.vatican.va/archive/ENG0015/___P4A.HTM), 1430, et seq.

32. “We all need more grace, but you simply cannot bypass repentance to get to grace. Repentance is the threshold to God.” <https://www.facebook.com/ACBCounselors>. 2024. “Secret Thoughts of an Unlikely Convert - Association of Certified Biblical Counselors.” Association of Certified Biblical Counselors. 2024.

How then does Colorado propose to determine harm? In a strict materialistic worldview, present pleasure, of course, obtains over non-existent future good. The APA's chapter on Religion, as it intersects with "Conversion Therapy," treats religious claims as merely comforting fables (for some). Perhaps to Colorado, the rollcall of Christian martyrs from the time of Jesus to today may be a rollcall of fools.

Colorado's view of harm has a religious dimension, which this Court has recognized in other contexts. In a capital case, the prisoner had alleged that he would be "unable to engage in protected religious exercise in the final moments of his life." *Ramirez v. Collier*, 596 U.S. 411, 433 (2022). On that basis, the Court identified "irreparable harm," which "[c]ompensation paid to his estate would not remedy" because the harm was "spiritual rather than pecuniary." *Id.*

This Court need not weigh "harm."<sup>33</sup> It is enough to recognize that Colorado's definition of "harm" is a matter of "sociological construction."<sup>34</sup> It seeks to suppress one viewpoint and impose its own—that it is "harm" to be chaste (or teach chastity) and "harm" to learn to love one's body as He created it. But "[w]hatever force [Colorado's] belief may have as a matter of moral philosophy, it has no more basis in the Constitution than did the naked policy

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33. "In this respect it were better for a man to die with a troubled conscience and despairing heart, than with a seared conscience and a hard heart." (William Gouge, *A COMMENTARY ON THE WHOLE EPISTLE TO THE HEBREWS*, vol. 1, Nichol's Series of Commentaries (Edinburgh; London; Dublin: James Nichol; J. Nisbet & Co.; G. Herbert, 1866), 242. This Court cannot decide whether such a belief is true or false.

34. Kazyak, *supra*.

preferences adopted in *Lochner*.”<sup>35</sup> And it is the “very purpose” of our Bill of Rights “to withdraw [such] subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities...”<sup>36</sup>

2. Even Colorado’s less obviously value-laden language cannot be stripped of its moral character. As part of its attack on religious practices, Colorado has used scientific, technocratic language to label certain practices “ineffective.”<sup>37</sup> What would be “effective,” in Colorado’s view, is left unsaid. But it seems to mean that when a teenager is confused about his or her sexual attraction or body, the now-regulated psychological techniques do not have a sufficient degree of success in altering the minor’s behavior or beliefs.

From Christian perspective, however, the question of what is “effective” is quite different. As Augustine explains, the Christian life is a conflict with various desires (“lusts”), which are our enemies: but there are those who do not count such desires wrong and, like Colorado, welcome some desire.<sup>38</sup> Today’s “science”

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35. *Obergefell v. Hodges*, 576 U.S. 644, 703, 135 S. Ct. 2584, 2621 (2015), dissent Roberts, C.J.

36. *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 638 (1943); see also *Evenwel v. Abbott*, 578 U.S. 54, 82 (2016); *Monterey Mech. Co. v. Wilson*, 138 F.3d 1270, 1270 (9th Cir. 1998).

37. Such efficiency language is the mark of a “technological society.” Jacques Ellul. *THE TECHNOLOGICAL SOCIETY*. 1964. Translated by John Wilkinson, Vintage Books, 1964. It itself is religious position.

38. “This conflict none experience in themselves, save such as war on the side of the virtues, and war down the vices: nor doth

contends that agreeing with the desire is a success, and no known technique can guarantee the absence of the desire; therefore, it is wrong to not just accede.

It is position of Amicus and the religious commitments of its members that it is better to strive for personal holiness and to strive against certain desires, despite that such conflict will be constant;<sup>39</sup> when one succumbs to a particular desire, it does not spell divine rejection, but rather a time for return.<sup>40</sup>

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anything storm the evil of lust, save the good of Continence. But there are, who, being utterly ignorant of the law of God, account not evil lusts among their enemies, and through wretched blindness being slaves to them, over and above think themselves also blessed, by satisfying them rather than taming them.” Augustine of Hippo, *On Continence*, in ST. AUGUSTIN: ON THE HOLY TRINITY, DOCTRINAL TREATISES, MORAL TREATISES 381, ed. Philip Schaff, trans. C. L. Cornish, vol. 3, A Select Library of the Nicene and Post-Nicene Fathers of the Christian Church, First Series (Buffalo, NY: Christian Literature Company 1887). Augustine, who apparently misinterprets Scripture, according to the APA, discusses the conflict of desires (“loves”) in many places.

39. See, e.g., *An Evaluation of the Sexual Identity Construct (Part 1)*, Association of Certified Biblical Counselors, 2024 (orig. pub., 2023), [biblicalcounseling.com/resource-library/podcast-episodes/an-evaluation-of-the-sexual-identity-construct-part-1/](https://biblicalcounseling.com/resource-library/podcast-episodes/an-evaluation-of-the-sexual-identity-construct-part-1/); Keith Palmer, *Crafting Temptation and Repentance Plans to Help Addicts*, Association of Certified Biblical Counselors (Aug. 5, 2020), [biblicalcounseling.com/resource-library/conference-messages/crafting-temptation-and-repentance-plans-to-help-addicts/](https://biblicalcounseling.com/resource-library/conference-messages/crafting-temptation-and-repentance-plans-to-help-addicts/); Kristen Defevers, *The Importance of Personal Holiness*, Association of Certified Biblical Counselors (2024), [biblicalcounseling.com/resource-library/podcast-episodes/the-importance-of-personal-holiness/](https://biblicalcounseling.com/resource-library/podcast-episodes/the-importance-of-personal-holiness/).

40. “How gracious God is to encourage miserable sinners to return! What encouragements and helps he gives them, what



Colorado has made an unambiguous moral decision pertaining to a fundamental element of human existence. It has made the moral decision that a conflict in one's conscience and desires is a "harm" and that since there is no "safe and effective"—*i.e.*, easy—technique to prevent that conflict,<sup>41</sup> certain speech on these topics should be not only abandoned but banned and punished. The Christian perspective is that such conflict is a given of the Christian life, and the difficulty itself is an element of the religion (and know of true change, 1 Cor. 6:11). The APA (as well as certain Colorado legislators) has been quite candid that Christian belief is the counter to certain matters of human sexuality and the human body.

What speech is "effective" at achieving some end, this Court has long recognized, is left to the People, or "the marketplace of ideas." Colorado has not only entered the marketplace but fixed its prices. That violates the "most basic" First Amendment principle that the "government has no power to restrict expression because of its message, its ideas, its subject matter, or its content." *Brown v. Entm't Merchs. Ass'n*, 564 U.S. 786, 794 (2011). The State

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effects his gracious working hath in them, and how sweetly they close with him again." Richard Sibbes, *THE COMPLETE WORKS OF RICHARD SIBBES* 251 (ed. Alexander Balloch Grosart, vol. 2; Edinburgh; London; Dublin: James Nichol; James Nisbet And Co.; W. Robertson, 1862). This is, of course, a fundamental element of Christian teaching in all traditions. See, e.g., USCCB, *Chapter Two: The Sacraments of Healing*, in *CATECHISM OF THE CATHOLIC CHURCH* (2024), [www.usccb.org/sites/default/files/flipbooks/catechism/359/](http://www.usccb.org/sites/default/files/flipbooks/catechism/359/).

41. Christianity understands the human being existing in a conflict of desires. See, e.g., "I do not understand my own actions. For I do not do what I want, but I do the very thing I hate." Romans 7:15 (RSV); Gal. 5:16-24.

has no “free-floating power to restrict [even] the ideas to which children may be exposed,” just because a legislature deems them “unsuitable.” *Id.* at 794-95.

The First Amendment stakes here are not abstract. Very real are the censorship and chilling effects, not just on professionals, but on third parties, SOCE and GOCE clients, who face a conflict between their sexual orientation and religious identification. Tozer and Hayes found that the overwhelming majority of those who seek to change do so out of a conviction that same-sex attraction is incompatible with their religious beliefs.<sup>42</sup> For such individuals, the lack of access to SOCE and GOCE was seen by even some psychologists as limiting their therapeutic options.<sup>43</sup> But more than that, it eliminates their speech in a crucial setting on the most fundamental topics of human identity and morality precisely because of its religious content.<sup>44</sup> Colorado need not “coerce” anyone to have unconstitutionally established a secular religion. Yet that is what it has done. *Schempp*, 374 U.S. at 221. By punishing certain topics from being discussed, Colorado has engaged in viewpoint discrimination, supplanted by its State-sponsored preferred religion.

With its technocratic categories—harm, safety, and the like—Colorado may think it has gone “beyond ... good and evil,” defining the “therapeutic” as if “nothing [is] at

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42. Erinn E. Tozer, and Jeffrey A. Hayes. 2004. “Why Do Individuals Seek Conversion Therapy?” *The Counseling Psychologist* 32, no. 5 (August): 716–40. <https://doi.org/10.1177/0011000004267563>

43. Haldeman, *supra* at 136.

44. Haldeman, *supra* at 137.

stake beyond a manipulatable sense of well-being.”<sup>45</sup> But this “master science” can be defined only by its negation—it is “the un-religion.” *Id.*

### C. Colorado’s “Science” Cannot Satisfy Strict Scrutiny.

1. Colorado did not base this law upon “science” in the sense that Physics is a science. Even the basic concepts of what is change, how or whether change occurs is far from consensus in psychology. Evans, Ian M. 2013. *How and Why People Change : Foundations of Psychological Therapy*. New York: Oxford University Press. Human beings do not function like billiard balls. Martin, Jack, Jeff Sugarman, and Janice Thompson. 2003. *Psychology and the Question of Agency*. Albany: State University Of New York Press. The rules of gravity and thermodynamics have yet to be found in the human heart.<sup>46</sup> Humans are agents, not atoms. Helium does not care what I think about, but I do.<sup>47</sup>

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45. Rieff, p. 10

46. This is a matter which is raised in introductory textbooks. (See, e.g., Robert S. Feldman McGraw-Hill Education, 2015, 19-22.) The quandary of determinism for psychology *if it is a “science”* and its further implications has been considered by those working with “psychology” as a science since its first days. Stephen S. Colvin “The Problem of Psychological Determinism.” *The Journal of Philosophy, Psychology and Scientific Methods*, vol. 1, no. 22, 1904, pp. 589–95; <https://doi.org/10.2307/2011211>. Accessed 7 May 2023.) As is insisted on herein, psychology occupies the space of *religion* in many instances, particularly when it concerns human sexuality.

47. “Wittgenstein found exactly the right words for modern psycho-therapy: ‘Psychological concepts are just everyday

There are many problems with the argument from “science.” First, there is the standing question pertaining to the validity and strength of the claims made for this “science.” The success of “science” in areas of chemistry and physics lend an aura of unimpeachable “truth” to anyone who uses the word “science” in one’s favor. Yet even with hard science, such as chemistry or physics, the conclusions are always tentative.<sup>48</sup> The sheer volume of “science” published every year has created favorable conditions for a flood of science which has been found to be false<sup>49</sup> and entire journals have been discontinued due to the scandal.<sup>50</sup>

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concepts. They are not concepts newly fashioned by science for its own purpose, as are the concepts of physics and chemistry. Psychological concepts are related to those of the exact sciences as the concepts of the science of medicine are to those of old women who spend their time nursing the sick.’ The absence of any scientifically credible grounds on which to accept the effectiveness of psychotherapy poses a challenge.” William M. Epstein *PSYCHOTHERAPY AS RELIGION*. 2006, p. 2; Devitt, Declan Murray, Patrick; “Suicide Risk Assessment Doesn’t Work.” *Scientific American*

48. Karmela Padavic-Callaghan. “‘Dark Photon’ Theory of Light Aims to Tear up a Century of Physics.” *New Scientist*, 29 Apr. 2025, [www.newscientist.com/article/2477695-dark-photon-theory-of-light-aims-to-tear-up-a-century-of-physics/](http://www.newscientist.com/article/2477695-dark-photon-theory-of-light-aims-to-tear-up-a-century-of-physics/). Accessed 20 May 2025.

49. Daniele Fanelli. “How Many Scientists Fabricate and Falsify Research? A Systematic Review and Meta-Analysis of Survey Data.” *PLoS ONE*, edited by Tom Tregenza, vol. 4, no. 5, May 2009, p. e5738, <https://doi.org/10.1371/journal.pone.0005738>; Singh Chawla, Dalmeet. “8% of Researchers in Dutch Survey Have Falsified or Fabricated Data.” *Nature*, July 2021, <https://doi.org/10.1038/d41586-021-02035-2>

50. King, Anthony. “Nineteen Journals Shut down by

The “science” of psychology faces two fundamental problems: For one, it suffers far more than other “sciences” when it comes to even basic tests for scientific validity such as republication of results.<sup>51</sup> For another, psychological research<sup>52</sup> is in the instant circumstance due to its equivocation on the label “conversion therapy.” As Ms. Chiles rightly contended before the lower courts the label “conversion therapy” was used in a fundamentally different way in the “scientific” studies cited an in the

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Wiley Following Delisting and Paper Mill Problems.” *Chemistry World*, 12 June 2024, [www.chemistryworld.com/news/nineteen-journals-shut-down-by-wiley-following-delisting-and-paper-mill-problems/4019595.article](http://www.chemistryworld.com/news/nineteen-journals-shut-down-by-wiley-following-delisting-and-paper-mill-problems/4019595.article). Accessed 25 Nov. 2024.

51. An enormous body of literature exists concerning the replication crisis across several disciplines. See, e.g.,

Anvari, Farid, and Daniël Lakens. 2018. “The Replicability Crisis and Public Trust in Psychological Science.” *Comprehensive Results in Social Psychology* 3, no. 3 (September): 266–86. <https://doi.org/10.1080/23743603.2019.1684822>; Psychology Today. 2010. “Replication Crisis | Psychology Today.” Psychology Today. 2010. <https://www.psychologytoday.com/us/basics/replication-crisis>;

“‘An Existential Crisis’ for Science: Institute for Policy Research - Northwestern University.” 2024. Wwww. [ipr.northwestern.edu](http://ipr.northwestern.edu). February 28, 2024. <https://www.ipr.northwestern.edu/news/2024/an-existential-crisis-for-science.html>. To this could be added the research on outright fraud in science.

52. “Without credible tests of the effects of its interventions and, to a great extent, because of the persistence of this failure, psychotherapy remains pseudoscientific. The community of its researchers has failed to pursue credible methodologies and credible measures or to appropriately and fully apply current methods.” Epstein, p. 2.

statute promulgated by Colorado.<sup>53</sup> Contra Colorado, the country of Peru found that those who think themselves transgender suffer from a mental illness.<sup>54</sup> Are legislators in Colorado just more scientific than legislators in Peru? Are Peruvian legislators victims of culture and those in Colorado stalwarts for hard scientific fact? Which persons who voted for this law have advanced degrees in hard science? Amicus could find none. One cannot pretend that the “science” in Colorado is conducted without societal influence.<sup>55</sup>

And, there is significant scientific research which contradicts the assertions in favor of Colorado’s law. For instance, Lawrence S. Mayer, M.B., M.S., Ph.D., a scholar in residence in the Department of Psychiatry at the Johns Hopkins University School of Medicine, issued a report in combination with Paul R. McHugh, M.D., University Distinguished Service Professor of Psychiatry and a professor of psychiatry and behavioral sciences at the Johns Hopkins University School of Medicine. The Executive Summary states in pertinent part:

The understanding of sexual orientation as an innate, biologically fixed property of human

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53. *Chiles v. Salazar*, 116 F.4th 1178, 1218 (10th Cir. 2024)

54. Joe Kotke. “Peru Classifies Transgender Identities as ‘Mental Health Problems’ in New Law.” *NBC News*, 20 May 2024, [www.nbcnews.com/nbc-out/out-news/peru-classifies-transgender-identities-mental-health-problems-new-law-rcna152936](https://www.nbcnews.com/nbc-out/out-news/peru-classifies-transgender-identities-mental-health-problems-new-law-rcna152936).

55. Daniele Fanelli. “Do Pressures to Publish Increase Scientists’ Bias? An Empirical Support from US States Data.” *PLoS ONE*, edited by Enrico Scalas, vol. 5, no. 4, Apr. 2010, p. e10271, <https://doi.org/10.1371/journal.pone.0010271>.

beings — the idea that people are “born that way” — is not supported by scientific evidence.<sup>56</sup>

The hypothesis that gender identity is an innate, fixed property of human beings that is independent of biological sex — that a person might be “a man trapped in a woman’s body” or “a woman trapped in a man’s body” — is not supported by scientific evidence. “Psychiatry is not ... an exact science, and psychiatrists disagree widely and frequently” on diagnostic criteria. *Ake v. Oklahoma*, 470 U.S. 68, 81 (1985). It is hard to accept Colorado’s view that its ‘scientific’ view is anything more than anti-Christian doctrine masquerading as science.

That human behavior is enormously plastic and that circumstances and one’s own make up will have profound effects, and that we can change our minds even over matters of grave importance should not surprise anyone. “Many of the benchmarks established by classic work in physical science are not attainable in studies of more complex phenomena.” David M. Sanbonmatsu, Emily H. Cooley, and Jonathan E. Butner. 2021. “The Impact of Complexity on Methods and Findings in Psychological Science.” *Frontiers in Psychology* 11, no. 1 (January): 580111. <https://doi.org/10.3389/fpsyg.2020.580111>.

Second, the science can no more determine the morality, or spiritual value of counsel, than a weathervane explain love for one’s child. Science is mute when asked

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56. MB, MS, PhD, Lawrence S Mayer, and Paul R. McHugh, MD. “Special Report Sexuality and Gender.” *The New Atlantis*, The New Atlantis, 2016, [www.thenewatlantis.com/publications/preface-sexuality-and-gender](http://www.thenewatlantis.com/publications/preface-sexuality-and-gender).

such questions. *Otto v. City of Boca Raton*, 981 F.3d 854, 869-70 (11th Cir. 2020) (“Although we have no reason to doubt that these groups are composed of educated men and women acting in good faith,” they “cannot define the boundaries of constitutional rights.”)

Human history repeatedly makes much of the relationship between human sexuality and what may be called “religious” belief. But there is no truly “neutral” space from which to view human sexuality. Sure, “scientific” language is utilized by the APA and Colorado uses language which seeks to characterize this debate as “science”<sup>57</sup> vs. “religion,”<sup>58</sup> “discrimination” vs. “harm.” Such language effectively stacks the deck in favor of Colorado and against Chiles; it is also false:

The field is enamored of the belief that real psychotherapies accept real clinical science, while fake psychotherapies employ

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57. *Chiles*, 116 F.4th at 1218 (“Dr. Glassgold described conversion therapy as ‘based on outdated, unscientific beliefs and false stereotypes’ that ‘have no basis in science and have been thoroughly discredited through decades of scientific research.’”).

58. Such a dichotomy is taken from the literature produced by the APA, “It is important to mention that religious traditions tend to use sacred scripture (e.g., the Bible), historical traditions, and moral philosophy to determine their views and prescriptions sexual behavior and ethics rather than contemporary social science research.” Haldeman, *supra*, footnote 65, at 111. Such an argument contains the unstated contention that “social science” could possibly answer the question of whether a matter was “morally correct”. The genius of the First Amendment is that neither the legislature nor the Courts resolve difficult issues of morality (and this a moral and religious question, not a question of science).



pseudoscience. In fact, the entire field is pseudoscientific and best understood as an elaborate mysticism only differentiated from frank religion, even its crackpot fringes, by a seemingly modern orientation and the cant of science.<sup>59</sup>

The APA has been explicit that the conflict between the positions advocated by the APA and enacted into law by Colorado is a conflict with “conservative” Christians. The APA’s “scientific” positions are at heart religious conflicts dressed up as “science”:

The religious, moral, and societal norms for gender identification and expression create the basis for the pathologization of people with transgender and gender nonbinary identities and expressions (see chapter 5). Just as religious doctrine is often used to demean same-sex attractions as sinful and immoral, it is also used to stigmatize people who defy Susan social norms for gender identification and expression. For example, the binaries that constrict gender kind, in part, be traced to biblically based doctrines that create a strict delineation between men and women and their roles and places in society. From our perspective, when pro- or anti -GICE rhetoric focuses on religious and moral issues and norms, it can create a debate vacuum in which religious or moral arguments supersedes and ignored scientifically inquiry and evidence. We

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59. Epstein, p. 2.

cannot ignore religious and moral perspectives, but we must expand the conversation to include scientific inquiry and professional consensus in our efforts to destigmatize non cisgender identities and expressions.<sup>60</sup>

The contention of the lower court and Colorado that this is not a religious conflict is simply untrue. Colorado is attempting to ban religious speech based upon its viewpoint<sup>61</sup>, its particular philosophy, and moral conclusions. Colorado is largely advocating a *religious* set of beliefs and practices, cloaking them as indisputable scientific positions based on a compelling state interest. Its determination that science is involved or compelling is without fact, scientific, or otherwise. Imposing this version of the world is religious; and using it to exclude another religion cannot withstand strict scrutiny.

2. The court below found that petitioner could fulfill her religious commitments by referring a minor client “to service providers outside of the regulatory ambit who can legally engage in efforts to change a client’s sexual orientation or gender identity.” *Chiles*, 116 F.4th at 1209. Based on Amicus’s experience, the possibility of such a referral is specious comfort. The MCTL defines certain speech by a licensed therapist to be “harmful” if spoken

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60. Haldeman, p. 62.

61. “Viewpoint discrimination is poison to a free society. But in many countries with constitutions or legal traditions that claim to protect freedom of speech, serious viewpoint discrimination is now tolerated, and such discrimination has become increasingly prevalent in this country.” *Iancu v. Brunetti*, 588 U.S. 388, 399, 139 S. Ct. 2294, 2302 (2019), Alito, J., concurring.

to a minor. *Chiles*, 116 F.4th at 1205-06. Related speech “deadnaming, misgendering” is found by the Kelly Loving Act to be abusive, even if utter by a parent. Assume a member of ACBC says to a minor in the course of counseling, “You are not really a boy. God made you as a girl. Your parents named you Kelly. I’m going to call you Kelly.” (How is it not “loving” to say, “Your body is not a mistake”?) The religious exemption granted by the legislature in the MCTL would provide little protection. Additionally, the legislature could easily rescind that exemption. Second, Colorado or a state court could easily conclude this “dangerous” speech is wrong, even tortious, when uttered by anyone. If it is “harmful,” how can there be a religious exemption? No court would extend free exercise to matters of true *harm* or *abuse*.<sup>62</sup>

Colorado’s brief in opposition suggests that petitioner can still “communicate her views,” “suggest[ that a patient seek conversion therapy from a religious minister or life coach,” or “engag[e] in conversion therapy as a religious advisor,” BIO.15. There’s just one catch—she just can’t call herself a “professional,” and she cannot be licensed. *Id.* That’s a pretty big price to pay simply to profess a traditional religious worldview in Colorado.

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No matter how one seeks to categorize the issue before this Court, it will be a moral decision. Moral decisions are

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62. Before the 10<sup>th</sup> Circuit, the APA asserted *religious counsel* causes “have been harmed” (APA Brief, 15). There is no religious safety valve for such counsel.

unavoidable in all policy debates.<sup>63</sup> Moral and religious decisions are unavoidable when the question concerns human sexuality.<sup>64</sup> The Court should recognize Colorado's choices for what they are and reject any notion that they serve a neutrally defined interest capable of satisfying strict scrutiny.

### CONCLUSION

The law infringes upon First Amendment rights of Ms. Chiles and entities like Amicus. Colorado contends its position is neutral, scientific, and technocratic. The scientific support is questionable, and at bottom, reveals itself to be *religious* too. If one were to invert the arguments, a court would easily find someone in Colorado's position to be asserting religious conclusions. But Colorado lacks religious rights, and it cannot assert its viewpoint by force. The First Amendment is designed to facilitate our pluralism, which can continue only as long as we can speak, listen, and tolerate one another. Colorado has denied that basic principle, and the judgment below should be reversed.

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63. George Lakoff. *Moral Politics : How Liberals and Conservatives Think*. University Of Chicago Press, 2002, p. 169.

64. Joan Y. Reed, et al. "Sex, Gender, and Sexuality in the *Journal*." *New England Journal of Medicine*, vol. 392, no. 3, Massachusetts Medical Society, Jan. 2025 ("And the question about is religion here — come on. Politics, religion, society — all of this is sort of melded together. And I thought it was even just fascinating of people trying to pick out this part is the religion, and this part is the politics, and this part is the medicine. It's in there together.")

Respectfully submitted,

MICHAEL S. OVERING

*Counsel of Record*

EDWARD C. WILDE

ITZEL MORALES

OVERING MORALES PROFESSIONAL LAW  
CORPORATION

790 East Colorado Boulevard, Suite 320

Pasadena, CA 91101

(626) 564-8600

movering@overingmorales.com

*Counsel for Amicus Curiae*