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 OF LEGAL ETHICS PROFESSORS AS *AMICI CURIAE* IN SUPPORT OF RESPONDENTS

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INTEREST OF *AMICI CURIAE*[1]

Amici are scholars of legal ethics with expertise on the rules, precedents, and other authorities related to attorneys' professional responsibility and legal ethics obligations. While this case directly involves the state regulation of licensed therapists, it implicates state regulation of professional conduct more broadly—including the conduct of attorneys. Logically, if a state can't restrict therapist speech, it shouldn't be able to restrict the speech of other professionals.

Amici, as legal ethics experts, have a professional interest in ensuring that the Court is aware of the professional responsibility problems that are presented in this case. Specifically, *amici* submit this brief to explain the extent to which this case could destabilize attorneys' long-standing professional and legal ethics obligations related to attorney speech.

The *amici* are:

Professor Cynthia Godsoe, Professor of Law, Dean's Research Scholar, and Associate Dean for Research & Scholarship, Brooklyn Law School

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[1] No counsel for a party authored this brief in whole or in part, and no entity or person, other than amicus curiae and its counsel, made a monetary contribution intended to fund the preparation or submission of this brief. Counsel for the parties were timely notified of amicus curiae's intent to file this brief.

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SUMMARY OF THE ARGUMENT

Lawyering is a profession driven by speech. To practice law is to advise, to argue, to write—in the broadest sense, to speak. But not to speak without rules or limits.

To protect the public and the profession, states have long regulated attorneys' speech, limiting what lawyers can say and sometimes dictating what they must. Attorneys cannot call themselves attorneys without meeting certain standards, cannot flood courts with frivolous suits, and cannot make certain statements publicly or to the press. All of those rules, and many more, limit or compel attorney speech. Yet they do not run afoul of the First Amendment.

For decades, courts have recognized that states have the authority to regulate attorney speech and that doing so ensures a fair judicial process, protects consumers, and upholds professional integrity. Indeed, this Court has explicitly approved regulations on attorney conduct that burden speech, explaining that these rules aim to ensure professional standards, not to regulate the content of attorney speech itself. *See, e.g.*, *Gentile v. State Bar of Nev.*, 501 U.S. 1030, 1075 (1991); *Ohralik v. Ohio State Bar Ass'n*, 436 U.S. 447, 460 (1978).

These rules are fundamental to the legal system as we know it. Commonsense regulations on attorney speech protect the constitutional right to a fair trial, allowing states to ensure that attorneys—the key

players in the judicial process—meet professional standards. And regulations also ensure that unscrupulous attorneys do not take advantage of clients, protecting the standing of the legal profession.

Amici write to explain how Petitioner's position threatens these long-established norms. Under Petitioner's overly broad reading, the First Amendment prohibits any regulation that touches on the content of the professional's speech—for therapists and attorneys alike. That expansion of First Amendment doctrine would not only work a revolution in this Court's First Amendment jurisprudence, it would also nullify countless state regulations that restrict attorney speech for the benefit of the public—and, in so doing, would interfere with the judicial process and ultimately erode faith in the legal profession.

The Court should affirm the Tenth Circuit's decision.

ARGUMENT

I. Lawyering Inherently Involves Speech.

Any legal professional knows that the practice of law inevitably involves speech. For lawyers, our "speech is our stock in trade." Frederick Schauer, *The Speech of Law and the Law of Speech*, 49 Ark. L. Rev. 687, 688 (1997). Lawyers ask questions, talk to clients, conduct interviews, write briefs, and argue before courts. Speech, then, "is not only central to what the legal system is all about, and not only the product of law as we know it, but basically the only thing that lawyers and the legal system have." *Id.*

The practice of law requires speech for at least two reasons. First, speech is a necessary means of

advocating for clients. Lawyers regularly use speech to "exercise their profession." Claudia E. Haupt, *Professional Speech*, 125 Yale L. J. 1238, 1240 (2016). Effective strategy requires thorough discussions with the client about the facts of their case. Effective written advocacy requires persuasive writing in every filing submitted to the court. And effective oral advocacy requires thoughtful phrasing in the courtroom. For these reasons, some of the nation's most prominent law schools evaluate their students in large part on how well they speak and write. The University of Chicago Law School, for example, expects students to "[h]ave the ability to write a competent legal analysis" and "[d]emonstrate communication skills" upon graduation.[2] Likewise, Harvard Law School expects students to develop proficiency in "communication" through their coursework.[3] No doubt the most valuable asset a lawyer can have is a mastery of speech.

Second, attorney speech allows lawyers to be stewards of the law itself, helping clients, lawmakers, and even judges better understand the law. It is well established that"[t]he 'rule of law' as we understand it requires promulgation" to the public. Stephen L. Pepper, *Counseling at the Limits of the Law: An Exercise in the Jurisprudence and Ethics of Lawyering*, 104 Yale L.J. 1545, 1547-48 (1995). Without knowing or understanding existing laws, members of the public are unlikely to—and probably unable to—follow them. "In a complex legal environment" like ours, "much law cannot be known

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[2] *See* The University of Chicago Law School, *Learning Outcomes*, https://www.law.uchicago.edu/learning-outcomes.

[3] *See Handbook of Academic Policies 2025-2026* at 14, Harvard Law School, https://hls.harvard.edu/wp-content/uploads/2022/07/HLS_HAP.pdf.

and acted upon, cannot function as law, without lawyers to make it accessible to those for whom it is relevant." *Id.* Lawyers often bridge the gap between lawmakers and the public through their speech activity—by explaining the law to courts in their briefs and oral argument and explaining the law to clients when advising them on individual issues. As President Abraham Lincoln once stated, "[S]peaking … is the lawyer's avenue to the public."[4]

In this way, it is both lawyers and the law that rely on lawyers' speech. Without "agents who communicate the rules through advice to private clients and governments and enable them to organize their businesses and structure their transactions and comply with regulations and tax laws and constitutional limitations," the rule of law would be significantly hindered. Robert W. Gordon, *The Role of Lawyers in Producing the Rule of Law: Some Critical Reflections*, 11 Theoretical Inquiries in Law 441, 448 (2010).

II. States Routinely Regulate Attorney Speech.

Though speech underlies nearly every aspect of the legal profession, states routinely regulate attorney speech—and those regulations are not just widely accepted but generally uncontroversial. The legal profession is "[p]erhaps the most obvious example of a 'speaking profession'" subject to government regulation. *Lowe v. SEC*, 472 U.S. 181, 228 (1985) (White, J., concurring). The justification is obvious: although lawyers engage in public discourse

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[4] Library of Congress, *Series 1. General Correspondence. 1833-1916: Abraham Lincoln, 1850-1860 (Notes for lecture on law)*, https://www.loc.gov/resource/mal.0045500/?r=-0.02,0.738,1.027,0.619,0.

regularly, they remain "officers of the court and professional licensees whose special privileges are conditioned upon foregoing some speech rights that others enjoy." Kathleen M. Sullivan, *The Intersection of Free Speech and the Legal Profession: Constraints on Lawyers' First Amendment Rights*, 67 Fordham L. Rev. 569, 569 (1998). For that reason, "[l]awyers' freedom of speech is constrained in many ways that no one would challenge seriously under the First Amendment." *Id.*

A. States Regulate Attorney Speech to Maintain Professional Standards.

No matter their practice area, specialty, or client base, lawyers face constraints in what they can, cannot, and must say. These restrictions are necessary to ensure that legal ethics principles are followed in an attorney's practice. Consider, for example, regulations that prohibit attorneys from committing fraud. The American Bar Association's Model Rules of Professional Conduct ("MRPC")[5] expressly ***bar*** speech by prohibiting lawyers from "mak[ing] a false statement of material fact or law to a third person" and ***compel*** speech by requiring attorneys "to disclose a material fact to a third person when disclosure is necessary to avoid assisting a

[5] Every state has adopted rules of professional conduct that closely follow or model the MRPC in some form. *See* American Bar Association, *Alphabetical List of Jurisdictions Adopting Model Rules* (Mar. 28, 2018), https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/alpha_list_state_adopting_model_rules/; *see also* Note, Alex Goldstein, *The Attorney's Duty to Democracy: Legal Ethics, Attorney Discipline, and the 2020 Election*, 35 Geo. J. Legal Ethics 737, 741 n.27 (2022).

criminal or fraudulent act by a client." Model Rules of Prof. Conduct R. 4.1.

Similarly, the MRPC prohibits attorneys from making "false or misleading communication[s] about the lawyer or the lawyer's services," such as in advertising. *Id.* R. 7.1. This Court has regularly upheld state regulation of false, misleading, or predatory advertising of an attorney's services because doing so protects the public, even though it restricts what an attorney can say. *See, e.g.*, *Fla. Bar v. Went for It, Inc.*, 515 U.S. 618, 620 (1995) (holding that a ban on lawyer direct mailing to victims for thirty days after an accident or disaster was permissible); *Zauderer v. Off. of Disciplinary Couns.*, 471 U.S. 626 (1985) (upholding a ban on print ads targeting victims); *Ohralik*, 436 U.S. at 449 (holding that the regulation of lawyer in-person solicitation was permissible when it implicated "circumstances likely to pose dangers that the State has a right to prevent").

Another example: licensing. Licensing is a threshold barrier to any and all of the professional speech that lawyers engage in. Before attorneys ever speak on behalf of a client, states require them to pass the Bar and obtain a license certifying that they are qualified to practice. Thus, "[a]lthough a lawyer's work is almost entirely devoted to the sort of communicative acts that, viewed in isolation, fall within the First Amendment's protection," this Court has "never doubted that [a] State can require high standards of qualification, such as good moral character or proficiency in its law, before it admits an applicant to the bar." *Lowe*, 472 U.S. at 228-29 (White, J., concurring) (quotations omitted) (alteration in original). The legal profession has "long

been subject to licensing and supervision by the State 'for the protection of society,'" and licensing requirements have always been upheld when they "'have a rational connection with the applicant's fitness or capacity to practice.'" Daniel Halberstam, *Commercial Speech, Professional Speech, and the Constitutional Status of Social Institutions*, 147 U. Pa. L. Rev. 771, 834 (1999) (first quoting *Dent v. West Virginia*, 129 U.S. 114, 122 (1889); then quoting *Schware v. Bd. of Bar Exam'rs*, 353 U.S. 232, 239 (1957)).

Lastly, states frequently regulate speech that interferes with the legal process. For example, the MRPC bars lawyers from making false statements to a court, Model Rules of Prof. Conduct R. 3.3(a), prohibits them from asserting arguments in legal papers that are deemed "frivolous," *id.* R. 3.1, requires them to make "truthful" statements, *id.* R. 4.1, and prevents them from engaging in speech that disrupts a legal proceeding, *id.* R. 3.5, presumably because such conduct wastes time and resources of opposing counsel and the court. In a similar vein, state tort law provides for malpractice suits, which hold attorneys accountable for what they represent in court and to clients. *See* Robert C. Post, *Democracy, Expertise, and Academic Freedom: A First Amendment Jurisprudence for the Modern State* 44-45 (2012). These rules play a critical role in ensuring that the public—including the courts—can rely on the things that attorneys say and count on attorneys to present themselves professionally during legal proceedings.

In sum, states commonly regulate attorney speech without fanfare.

B. This Court Regularly Upholds State Regulation of Attorney Speech.

Courts, including this one, regularly uphold state laws that implicate attorney speech. For instance, in *Gentile*, the Court found no First Amendment problem in Model Rule of Professional Conduct 3.6, which prohibits an attorney from making "an extrajudicial statement" to the press that "will have a substantial likelihood of materially prejudicing" a matter they are working on. 501 U.S. at 1075. At the time, 31 states had adopted this version of the rule. *Id.* at 1068. The Court determined that the rule was proper because it balanced the "First Amendment rights of attorneys in pending cases" and the "State's interest in fair trials." *Id.* at 1075.

The Court further explained that because "[l]awyers representing clients in pending cases are key participants in the criminal justice system," states may regulate attorney "speech as well as their conduct" to ensure "adherence to the precepts of that system." *Id.* at 1031 ("[A] lawyer's right to free speech is extremely circumscribed in the courtroom, and, in a pending case, is limited outside the courtroom as well." (citation omitted)). In fact, this Court has ordered that courts ***must*** "take such steps by rule and regulation" to ensure attorney speech does not interfere with the judicial process. *See Sheppard v. Maxwell*, 384 U.S. 333, 363 (1966).

In one case, this Court went as far as to say that a New Jersey court should have exercised ***more*** control over attorney speech. In *Sheppard*, the Court held that the trial court should have "proscribed extrajudicial statements by any lawyer … which divulged prejudicial matters." *Id.* at 361. The reason

was clear: state law is critical to ensure a fair judicial process. *See id.* at 363. In the Court's words, attorney communications "affecting the fairness of a criminal trial [are] not only subject to regulation, but [are] highly censurable and worthy of disciplinary measures." *Id.*

Decades of Supreme Court decisions have recognized that states may regulate attorney speech even in "area[s] far from the courtroom and the pendency of a case." *See Gentile*, 501 U.S. at 1073. This Court has routinely acknowledged that such regulation is permissible because states have a strong "interest in the regulation of a specialized profession." *See id.*; *see also Ohralik*, 436 U.S. at 460 ("[T]he State bears a special responsibility for maintaining standards among members of the licensed professions.").

For example, in *Gentile,* the Court explained that an attorney's "right under the First Amendment to solicit business" is not necessarily "protected … to the same extent as those engaged in other businesses" because there is a "long-established principle" that an attorney is an "officer of the court, and, like the court itself, an instrument of justice" subject to state regulation. 501 U.S. at 1073-74 (quotations omitted). Similarly, in *Bates v. State Bar of Arizona*, 433 U.S. 350 (1977), this Court noted that state advertising regulations may differ for attorneys than for others, and for good reason: "because the public lacks sophistication concerning legal services, misstatements that might be overlooked or deemed unimportant in other advertising may be found quite inappropriate in legal advertising." *Id*. at 383.

This Court has also consistently upheld state laws regulating attorney conduct that incidentally burden speech.[6] For example, in *Ohralik*, this Court held that the Disciplinary Rule in the Ohio Code of Professional Responsibility forbidding attorneys from "soliciting clients in person, for pecuniary gain" did not violate the First Amendment. 436 U.S. at 449. The Court explained that such state regulations are proper because attorney conduct where speech is a "component of that activity" is only "marginally affected by First Amendment concerns." *Id.* at 456-59. And on the other side of the ledger, states have a strong interest in "regulating members of the Bar in an effective … manner." *Id.* at 467.

Similarly, in *Zauderer*, the Court held that the Disciplinary Rule in the Ohio Code of Professional Responsibility requiring attorneys to include certain disclosures in their advertisements did not violate the First Amendment. 471 U.S. at 652-53. The Court explained that, although such disclosure requirements implicated First Amendment rights, the implication was "minimal" and easily outweighed by the state's interest in "preventing deception of consumers." *Id.* at 651; *see also Fla. Bar*, 515 U.S. at 635 (holding that restriction on direct mailing was permissible under the First Amendment because the state bar had "substantial interest" in protecting citizens from "invasive conduct by lawyers" and "preventing the erosion of confidence in the profession").

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[6] In fact, in *National Institute of Family & Life Advocates v. Becerra*, 585 U.S. 755, 768 (2018), this Court unequivocally stated that "[s]tates may regulate professional conduct, even though that conduct incidentally involves speech."

Lower courts have repeatedly reached similar conclusions. For example, in *Janson v. LegalZoom.com, Inc.*, 802 F. Supp. 2d 1053 (W.D. Mo. 2011), the court held that Missouri's unauthorized practice of law statute, which prohibits persons from engaging in law "unless he shall have been duly licensed therefor," Mo. Ann. Stat. § 484.020, did not violate the First Amendment. 802 F. Supp. 2d at 1066. The court explained that such regulations are "directed at conduct, not speech," and even though the regulations may involve and affect speech, "the State does not lose its power" to regulate attorney conduct "whenever speech is a component of that activity." *Id.* (quotations omitted); *see also Conn. Bar Ass'n v. United States*, 620 F.3d 81, 93, 100 (2d Cir. 2010) (explaining that attorney speech with respect to the "procurement of remunerative employment" is afforded only a "limited measure of protection," and falls "within the State's proper sphere of economic and professional regulation" by the state (quotation omitted)); *Cap. Associated Indus., Inc. v. Stein*, 922 F.3d 198, 207 (4th Cir. 2019) (upholding North Carolina ban on the practice of law by corporations despite incidental effects on speech); *Doyle v. Palmer*, 365 F. Supp. 3d 295, 304–05 (E.D.N.Y. 2019) (holding requirement of sponsor affidavit for Bar admission "is nothing more than a standard regulation of the legal profession that … passes rational basis review" (citation omitted)).

III. Courts Uphold State Regulation of Attorneys' Speech Because It Serves Important Public Interests.

All of this regulation—and this Court's support of it—is unsurprising. Regulation of attorney speech serves the public's interest in at least two ways: (1) it

protects the legal system by ensuring the right to a fair trial, and (2) it protects clients.

A. The Right to a Fair Trial

As the Supreme Court noted in *Gentile*, "[f]ew, if any, interests under the Constitution are more fundamental than the right to a fair trial by 'impartial' jurors." 501 U.S. at 1075. The Founding Fathers agreed that the right to a fair judicial process was essential to the principles of liberty enshrined in the Constitution. Indeed, the Bill of Rights contains five amendments that address due process protections for those accused of a crime.[7] And as we all know, "lawyers are essential to the … governmental function of administering justice." *Goldfarb v. Va. State Bar*, 421 U.S. 773, 792 (1975).

Courts have recognized that protecting this fundamental right justifies commonsense regulations on attorney speech. As explained in the case law above, trial courts regulate attorney speech in order to ensure a fair judicial process. *See Sheppard*, 384 U.S. at 363. For example, without state laws barring the practice, lawyers could prejudice jurors by making certain statements to the press. Thus, states and courts regulate attorney speech to insulate proceedings from "prejudicial publicity and disruptive influences." *Id.* at 358 n.11. Because attorneys participate in the criminal justice system and are trained in its complexities, they hold unique qualifications as a source of information and have the potential to be particularly disruptive. As this Court noted in *Gentile*, attorney speech is "likely to be received as especially authoritative" because of such qualifications and attorney's specialized access to

[7] U.S. Const. amends. IV-VIII.

information through "discovery and client communications." 501 U.S. at 1074. Thus, courts have upheld regulation of attorney speech on the basis that it reinforces the integrity of the justice system and the access to fundamental rights it ensures.

B. Protecting Clients

Just as plainly, regulating attorney speech protects clients by ensuring their interests are fairly and adequately represented. Attorneys, "through their education and training, have access to a corpus of specialized knowledge that their clients usually do not." *King v. Governor of State of N.J.*, 767 F.3d 216, 232 (3d Cir. 2014), *abrogated on other grounds by Becerra*, 585 U.S. 755. Clients put "their livelihood in the hands of those who utilize knowledge and methods with which [they] ordinarily have little or no familiarity." *Id.*

State regulation of professional conduct "maintain[s] standards among members of the licensed professions," *Ohralik,* 436 U.S. at 460; *see, e.g.*, *Va. State Bd. of Pharmacy v. Va. Citizens Consumer Council, Inc.*, 425 U.S. 748, 768 (1976) ("[H]igh professional standards, to a substantial extent, are guaranteed by the close regulation to which pharmacists in Virginia are subject."). Just as states' requirements that doctors be board certified ensures patients are receiving the proper care, states' regulation of attorney conduct ensures clients are receiving the proper representation.

And state regulation ensures that clients are not misled by attorney communications. As Will Rogers famously commented, "The minute you read

something and you can't understand it you can almost be sure that it was drawn up by a lawyer." As this Court has noted, because clients may not be able to recognize the falsity of attorney speech, states must protect the "lay public" from being misled. *See Ohralik*, 436 U.S. at 468.

IV. Petitioner's Position Would Undermine States' Long-standing Ability to Regulate Attorney Speech, Disrupting the Legal System As We Know It.

Petitioner's argument in this case is that Colorado's regulation, which prohibits licensed counselors from engaging in "treatment … that attempts or purports to change an individual's sexual orientation or gender identity" with minor patients, "bans speech" and "silences conversations" in violation of the First Amendment. *See* Pet. Br. 10-11 (quoting Colo. Rev. Stat. § 12-245-202(3.5)(a)).

Petitioner claims that Colorado's law regulates speech rather than conduct because the only "conduct which the State [seeks] to punish is the fact of communication." *Id.* at 30 (quotations omitted). Petitioner argues this speech is constitutionally protected because the First Amendment does not "draw[] a … distinction" between professional and non-professional speech. *Id.* at 33 (quotations omitted). Petitioner insists that the "professional speech is not a separate category of speech that is subject to different rules or afforded diminished constitutional protection." *Id.* at 26 (quotations omitted). Rather, "the same ordinary First Amendment principles that apply outside the professional context apply within it." *Id.* (quotations omitted).

If adopted, Petitioner's position would do much more than affect patients in the therapy context; it would threaten to undercut states well-established professional standards. To avoid that outcome, the Court should continue to uphold states' routine regulation of professionals' speech.

As explained, *see supra* at 3-5, nearly every activity an attorney undertakes involves speech. Attorneys draft pleadings, argue in court, and counsel clients. There is essentially no attorney conduct that is "separately identifiable" from communication. And that means that the regulations that govern attorney conduct also govern attorney speech. Yet under Petitioner's expansion of the First Amendment, many of these regulations could unravel.

For example, the regulation that prohibits an attorney from making statements to the press, *see supra* at 9, may no longer stand because like Colorado's regulation, the law applies depending on the "certain content and views." Pet. Br. 31 (quotations omitted). That could not only jeopardize the sanctity of the judicial process but also threaten the fundamental right to a fair trial by an impartial jury: attorneys could use their outsized influence to sway the outcome of a trial. That's no mere hypothetical; it's exactly what happened in *Sheppard*. 384 U.S. at 363.

And as the sanctity of the judicial process could be compromised, so too could the public's faith in the legal profession. Consider a familiar example. During O.J. Simpson's trial in 1995, California did not have a regulation regarding attorneys' statements outside the courtroom. Katrina M. Kelly, *The "Impartial" Jury and Media Overload: Rethinking*

Attorney Speech Regulations in the 1990s, 16 N. Ill. U. L. Rev. 483, 495 (1996). Attorneys "attack[ed] witnesses' credibility in press interviews," contributing to the spectacle surrounding one of the most "sensational" and "public" trials in history. Mireya Navarro, *Spectacle of Simpson Trial Makes Justice System Wince*, N.Y. Times, May 29, 1995. The trial "served up a distorted view of American justice that has done little to enhance the public's faith in the legal system or profession regulation." *Id.* In response, the State Bar of California quickly adopted a regulation on attorney statements outside the courtroom. Kelly, 16 N. Ill. U. L. Rev. at 495-96.

If routine regulation of attorney conduct were no longer valid, these sorts of spectacles could become commonplace, not to mention that people could regularly be misled by unethical attorneys and false advertising. As discussed in *Ohralik*, see *supra* at 11, States must regulate attorney solicitation and advertisement to protect consumers. These laws are designed to ensure that attorney communications to prospective clients are credible, enabling prospective clients to make informed choices when selecting an attorney. Without such regulations, the mutual trust essential to the attorney-client relationship could be jeopardized.

But because many of these regulations relate to the content of the message, they would also fall under Petitioner's understanding of the First Amendment. Pet. Br. 26. *See, e.g.*, Model Rules of Prof. Conduct R. 7.1 ("A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services."); Conn. Rules of Prof. Conduct R. 7.3(e) ("Every written solicitation, as well as any solicitation by audio or video recording, or other electronic means,

used by a lawyer for the purpose of obtaining professional employment from anyone known to be in need of legal services in a particular matter, must be clearly and prominently labeled 'Advertising Material' in red ink[.]"). Without the safety net of such regulations, the public's faith in the legal profession itself could be threatened.

Disregarding these kinds of downstream effects, Petitioner argues that the First Amendment protects her speech because, otherwise, states would be able to "suppress disfavored views" and "censor" counselors. Pet Br. 35-38. But regulation of a professional's speech is just that—professional, not personal. As explained, *supra* at 6-8, states pass laws that regulate expression of personal views in professional settings all the time. That is why, for example, an attorney cannot disrupt court proceedings to share her personal views on an issue, even if she thinks they might change the outcome of a case. Model Rules of Prof. Conduct R. 3.5(d). Lawyers are not allowed to say anything that they want in a professional setting simply because their personal beliefs compel it. Counselors are no different.

To protect states' ability to regulate professional conduct, the Court should uphold Colorado's prohibition on conversion therapy. Otherwise, Petitioner's overly broad reading of the First Amendment will threaten well-established regulatory schemes and risk harm to the public by inhibiting states from passing laws that maintain professional standards. The Court should reject Petitioner's expansion of First Amendment doctrine.

CONCLUSION

For the above reasons, the Tenth Circuit's decision should be affirmed.

Respectfully submitted.

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