THE AMERICAN PSYCHOLOGICAL ASSOCIATION AND HOMOSEXUALITY: 
A CASE OF SCIENTIFIC FRAUD

I. INTRODUCTION

The American Psychological Association (APA) is guilty of scientific fraud on the public and the judiciary for its misrepresentations about homosexuality. As an organization, the APA has failed to separate advocacy based on “scientific data and demonstrable professional experience” from advocacy by “agenda-driven ideologues” within its ranks “who show little regard for either scientific validation or professional efficacy.” As a result of the APA’s lack of scientific integrity, the mental and physical health risks of homosexuality have been falsely represented to the public and the judiciary. The APA also falsely represents that it is committed to diversity and open-mindedness in the profession, when in fact it is opposed to patient autonomy to choose to seek change and clinician freedom to treat patients who desire to change their sexual orientations. Using an irrelevant research finding as its basis of scientific support, it has passed a resolution in favor of same-sex marriage. Using flawed and inadequate research, it has represented to the public that child-rearing by gay couples is as healthy for a child as dual-gender parenting.

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2 Rogers H. Wright and Nicholas A. Cummings, Destructive Trends in Mental Health: The Well-Intentioned Path to Harm xiii (Taylor & Francis Group: 2005) [hereinafter DESTRUCTIVE TRENDS].
Those responsible for these actions by the APA know that many of their scientific representations are out-of-date, biased, untrue, and suppress large amounts of research that reaches an opposite conclusion, yet they intentionally continue to assert them as truth. As a result, both individuals and the general public have been misled, and have relied on this misinformation to their detriment. The American judiciary has also relied on the APA’s false scientific misrepresentations in amicus briefs presented in court decisions such as Lawrence v. Texas, Romer v. Evans, and Goodridge v. Dept. of Public Health, establishing precedents which have the potential to exacerbate the harm caused by homosexuality that these psychologists seem so anxious to deny. The APA has become a political organization with a gay-activist agenda represented in its official publications, while portraying itself as a scientific organization neutrally reporting scientific data.

After homosexuality was taken out of the Diagnostic and Statistical Manual of Mental Disorders by the American Psychiatric Association in 1973, in itself a political—rather than a scientific—process, the APA has become the most extreme mental health guild in its pro-homosexual agenda. They have stifled research and review of studies that refute their political position, and have intimidated members within their ranks who spoke out against this abuse of the scientific process. In many cases, these stifled members have been entirely silenced so as not to lose their professional status, and others have been ostracized and their reputations damaged—not because their science was lacking in rigor or value—but because their results did not comply with the designated official “policy.” Influential leaders of the American Psychological

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3 See Jeffrey B. Satinover, The Trojan Couch: How the Major Mental Health Guilds Subverted Medical Diagnostics, Scientific Research and Jurisprudence to Undermine the Institution of Marriage, paper presented at the NARTH Conference November 12, 2005.


Association (APA), who self-identify as “liberal activists” in their private lives, have come forward to publicly oppose the illiberalism of their fellow psychologists, stating that “psychology and mental health have veered away from scientific integrity and open inquiry, as well as from compassionate practice in which the welfare of the patient is paramount.”

The scientific fraud occurring within the ranks of the APA must come to light for two very important reasons. Individuals are being harmed, sometimes irreparably so, by their reliance on the APA’s false misrepresentations; first, that homosexuality is just as healthy as heterosexuality, and second, that change is not possible. As a result, individuals who may otherwise have sought professional help and succeeded in changing or modifying their same-sex behaviors and orientation are learning from the APA that this is not possible.

Second, American courts have relied in some important cases on the APA’s false representations about homosexuality, with a resulting vast change in the social and legal landscape that has affected all Americans. Would the judges involved have made these decisions without the assurance that homosexuality is not a disorder? That it is not associated with psychopathology? That it is unchangeable? That gender is essentially irrelevant to both marriage and child-rearing? Did the judges notice that the briefs supporting the APA’s position in these cases were all written by the same small group of people, well-known gay activists and pedophiles, who cited much of their own biased or flawed research, which in turn cites either more of their own research, or trivial, out-of-date, or discounted research, while ignoring better, more recent, and more important research? Or that the research paraphrased in support of their propositions actually supports the opposite conclusion, had they only quoted the relevant

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7 DESTRUCTIVE TRENDS, xiv.
8 See Jeffrey B. Satinover, The Trojan Couch: How the Major Mental Health Guilds Subverted Medical Diagnostics, Scientific Research and Jurisprudence to Undermine the Institution of Marriage, paper presented at the NARTH Conference November 12, 2005 [hereinafter TROJAN COUCH].
portions? If the APA’s scientific fraud is allowed to continue, more harm will follow, particularly to the institution of marriage and to the most vulnerable members of our society—children.

There must be accountability for such scientific fraud. Traditionally, the legal elements that constitute a claim of fraud include a false representation of a material fact, made either knowingly or with the intent to deceive or suppress the truth, which has induced reliance on the false representation. This paper will address the APA’s malfeasance as a case of scientific fraud, and is organized into four sections: Part II will identify six specific false representations and concealment of material facts made by the American Psychological Association, along with indications that they knew of or intended to conceal the truth. Part III addresses the flaws and misrepresentations in the research presented in the APA’s briefs in the notable cases Lawrence v. Texas, and Romer v. Evans, to establish judicial reliance on the APA’s false representations. In Part IV, a hypothetical case of scientific fraud against the APA will be presented in conclusion.

II. THE APA’S FALSE REPRESENTATIONS OF MATERIAL FACTS MADE WITH KNOWLEDGE OR INTENT TO DECEIVE OR SUPPRESS THE TRUTH

The first elements of scientific fraud by the APA are its false representations of material facts made either knowingly or with the intent to deceive or suppress the truth. Six misrepresentations will be addressed in this section: 1) The status of homosexuality as a mental health disorder, 2) the APA’s representation of itself as committed to diversity and open-

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9 Id.
10 37 Am. Jur. 2d Fraud and Deceit § 23.
13 Id.
mindedness, 3) its claim that homosexuality is just as healthy as heterosexuality, 4) the APA’s support of same-sex marriage and 5) child-rearing by homosexual couples, and finally 6) the assertion that sexual orientation change is not possible. Following a description of the APA’s misrepresentations, the facts will be set forth, along with indications that the APA knowingly misrepresented them, or intended to deceive or suppress the truth in its publications and statements.

A. The Status of Homosexuality as a Mental Health Disorder

1. The APA’s Material Misrepresentation.

Although the APA’s web site correctly states that in 1973 the American Psychiatric Association “removed homosexuality from the official manual that lists mental and emotional disorders,” they incorrectly state that “psychologists, psychiatrists, and other mental health professionals agree that homosexuality is not an illness, mental disorder or an emotional problem.”\textsuperscript{14} Further, they falsely state that “[o]ver 35 years of objective, well-designed scientific research has shown that homosexuality, in and of itself, is not associated with mental disorders or emotional or social problems.”\textsuperscript{15} The APA site states that once bias against homosexuality was recognized and studies conducted of homosexual persons not undergoing psychological treatment, “the idea that homosexuality was a mental illness was quickly found to be untrue.”\textsuperscript{16}

\textsuperscript{15} Id.
\textsuperscript{16} Id.
2. **The Facts.**

   A. *There is no agreement among psychologists, psychiatrists, and other health professionals that homosexuality is not a mental or emotional illness, disorder or problem.*

Homosexuality was removed from the American Psychiatric Association’s *Diagnostic and Statistical Manual of Mental Disorders* as a psychiatric diagnosis in 1973 not by valid scientific evidence, but by a political vote of 5,854 to 3,810 by members of the American Psychiatric Association.\(^\text{17}\) The “scientific” research upon which the American Psychiatric Association officially relied was reported by individuals who lacked research credentials or practical experience with the homosexual population, conducted in a methodologically flawed and sometimes fraudulent manner, and presented with a biased and ideology-driven perspective; further, it purposely ignored directly contradictory research by credentialed and far more experienced researchers and clinicians.\(^\text{18}\)

I attended a dinner with Dr. Robert L. Spitzer in May, 1999, and listened to his explanation of the decision that removed homosexuality from the psychiatric classification system. Dr. Spitzer reported that as a junior member of the task force on nomenclature and statistics which was charged with the classification of mental disorders, he was approached and persuaded by a group of gay activists that removing the diagnosis would eliminate the prejudice and stigma that many homosexuals experienced.\(^\text{19}\) His desire to help minimize social discrimination against homosexual men and women led to this classification change, which was accepted by the classification committee only on the basis of his “compromise proposal

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\(^{17}\) **DESTRUCTIVE TRENDS**, 9; William T. O’Donohue and Christine E. Caselles, *Homophobia: Conceptual, Definitional, and Value Issues*, in **DESTRUCTIVE TRENDS** at 66.

\(^{18}\) See Jeffrey B. Satinover, *TROJAN COUCH* supra n.8. These facts and the underlying research relied on are analyzed in detail in Satinover’s report.

\(^{19}\) A. Dean Byrd, *Dr. Robert L. Spitzer, the Scientist, the Man*, unpublished manuscript.
suggesting that if homosexuals did not want help that they should not be forced into treatment,”
while those who were bothered by homosexual attraction were entitled to treatment. The vote
was accompanied by a “political firestorm . . . created by gay activists,” during which
psychiatrists who were intensely opposed to “normalizing homosexuality” were silenced by
demonizing and threatening them, rather than by “scientifically refut[ing]” them. In 1987, Dr.
Spitzer’s proposal that those bothered by their homosexual attraction were entitled to treatment
was disregarded, so that by vote of the members, not by scientific data—and whether or not
homosexual individuals were bothered by their sexual orientation—homosexuality was declared
not to be a mental disorder.

Two years after this unscientific vote by the American Psychiatric Association, and
knowing of this history and the lack of scientific consensus on the issue, the APA passed two
resolutions contingent on further research, the first resolution stating that homosexuality was not
a psychiatric condition, and the second that “there is no occupation for which being homosexual
should be a barrier to employment.” In the ensuing years, the APA then failed to make any
effort to encourage or promote the research required to substantiate these resolutions, and
instead now treats the resolutions themselves as scientific evidence of the truth of their
propositions. Nicholas A. Cummings, Ph.D., past president of the APA and sponsor of the
resolution, “watched with dismay” as this research was not undertaken, and asked the task force

20 Id.
21 DESTRUCTIVE TRENDS at 9. See also Kathleen Melonakos, Why Isn’t Homosexuality Considered a Disorder On
Satinover in TROJAN COUCH describes specific incidents, such as militant activists forcibly disrupting American
Psychiatric Association conferences, shouting at and intimidating its members by name-calling and accusations, and
demanding to present their views as officially sponsored “panelists.”
22 Id. For further background into the persons, research, rioting, and politics behind the American Psychiatric
Association’s decision, see Jeffrey B. Satinover, TROJAN COUCH supra n8.
23 Id.
24 Id.
charged with conducting this research why they had not even begun. He subsequently

discovered that all reference to the research requirement had been deliberately excised, or

"sanitized" from the minutes, and therefore was not mandated. Why? After becoming the

APA’s president, Cummings appointed the first Task Force on Lesbian and Gay Issues in 1979, only to find it being “hijacked by extremists” who have since used it as a “power base[... to influence the course and commitments of the APA.” By then, “only research with predictably favorable outcomes” was permitted. Cummings continues to watch these activists “exploit the stature of the parent body to further their own social aims – pushing the APA to take positions in areas where they have no conclusive evidence.”

Additionally, numerous psychologists, psychiatrists, and other health professionals both speak about and write the results of their professional research that homosexuality is or may be a disorder, and have done so for years. That not all mental health professionals agree that homosexuality is not a disorder is further manifested by homosexuality’s classification as a disease in the most recent edition of the International Classification of Diseases by the World

25 Id.
26 Nicholas A. Cummings, Ph.D., The Painful Education of a Well Intentioned APA President, transcript of speech in the author’s possession. Cummings is very prominent within the APA, having been past president of the APA Division 12 and Division 29 as well as the recipient of five honorary doctorates for contributions to psychology, education, and Greek Classics. He is the recipient of psychology’s Gold Medal for lifetime contributions to practice. He is currently a distinguished professor, University of Nevada, president of the Cummings Foundation for Behavioral Health, and chairs the boards of both the Nicholas and Dorothy Cummings Foundation and CareIntegra.
27 Id.
28 Id.
29 Nicholas A. Cummings & William T. O’Donohue, Psychology’s Surrender to Political Correctness, in DESTRUCTIVE TRENDS at 10.
30 Nicholas A. Cummings, Ph.D., The Painful Education of a Well Intentioned APA President, speech presented at the 2005 NARTH Conference.
32 That there is no “agreement” or consensus on this matter is easily observable by conducting even a basic search of psychological and psychiatric literature. Researchers documenting homosexuality as a disorder are too many to list individually, but for a sampling, see, e.g., Charles W. Socarides, M.D., Homosexuality: A Freedom Too Far; Joseph Nicolosi, Ph.D., Reparative Therapy of Male Homosexuality: A New Clinical Approach; Jeffrey Satinover, M.D., Homosexuality and the Politics of Truth. See also Jeffrey B. Satinover, TROJAN COUCH, supra n.8 for a description of similar research and findings that were available at the time of the 1973 decisions.
Health Organization.\textsuperscript{33} Thus, the evidence is clearly against the APA’s assertion that specialists “agree” that homosexuality is not a mental disorder, illness, or problem. The scientific evidence does not support this claim, nor is there political “agreement” within the APA. Rather, as is the case with almost all political issues, there is great controversy within the ranks of the APA regarding whether homosexuality is or is not a mental disorder. Yet the APA goes to great lengths to prevent this controversy from coming into the public eye.\textsuperscript{34} There is no evidence of the political dispute in its publications intended for the general public. Instead, the APA’s claim is asserted as a scientific fact, and those researchers and practitioners who disagree with the official APA party line are “shun[ed] and intimidate[ed]” with “loss of tenure or stature,” “ridicule and even vicious attacks”\textsuperscript{35} in order to silence them. A proliferation of research since 1973 focusing on “homophobia,” or negative reactions and attitudes toward homosexuality, has served to further chill the willingness of researchers to openly reveal and discuss their scientific and value positions as they struggle with issues surrounding homosexuality.\textsuperscript{36} Objective, unbiased science was clearly not the basis for the APA’s official actions and decisions, which were carried out by the APA with knowledge that they were misleading the public by representing them as scientific, rather than political, results. By doing so, the APA also


\textsuperscript{34} Nicholas A. Cummings, Ph.D., \textit{The Painful Education of a Well Intentioned APA President}, transcript of speech in the author’s possession. Cummings states that “[o]nly research with predictably favorable outcomes is permissible” and that intimidation via accusations of homophobia is used to “silence anyone who would disagree with the gay activist agenda.” \textit{Id.}

\textsuperscript{35} DESTRUCTIVE TRENDS at xv. Even those who may agree with the APA’s official stance have been chilled by outspoken advocates. Nicholas A. Cummings, Ph.D., past president of the APA, reports that before he could open his mouth to voice his agreement with the “positions of a prominent female psychologist,” he was interrupted and publicly told by her, “I don’t know what you are going to say; but we could never agree because I am a lesbian and you are a straight white male.” \textit{Id.} at xxviii.

\textsuperscript{36} William T. O’Donohue and Christine E. Caselles, \textit{Homophobia: Conceptual, Definitional, and Value Issues}, in DESTRUCTIVE TRENDS at 68, 82.
misrepresents itself as a credible and trustworthy scientific organization rather than as little more than a social advocacy group on this issue.

B. Well-designed studies for many years have shown and continue to show that homosexuality is associated with mental, emotional, and social disorders and problems.

Contrary to the APA’s public stance that 35 years of research has shown that homosexuality alone is not associated with mental disorders or emotional or social problems, there is a plethora of research that shows exactly the opposite.\textsuperscript{37} While there is too much research to be summarized here, several representative examples can be given. For example, in one study, “reports of lifetime measures of suicidality [were] strongly associated with same-gender sexual orientation.”\textsuperscript{38} Even when controlled for substance abuse and other co-morbid psychiatric disorders, homosexual men showed a “substantially increased lifetime risk of suicidal behaviors.”\textsuperscript{39} Another researcher studying suicidality and mental health among young gay, lesbian, or bisexual persons, found that such youth are “at increased risk” for suicidal ideation, suicide attempts, major depression, generalized anxiety disorder, conduct disorder, nicotine dependence, other substance abuse or dependence, and having multiple disorders.\textsuperscript{40} This small sampling alone demonstrates the reality, stated by one writer summarizing this research, that “there are very few studies on homosexuality that do not immediately and consistently make

\textsuperscript{37} See, e.g., John R. Driggs, Jr., M.D., \textit{The Health Risks of Gay Sex}, Corporate Resource Council, 6-7; Jeffrey B. Satinover, \textit{TROJAN COUCH} supra n.8, at 30.


\textsuperscript{39} \textit{Id.} at 867. Other researchers agree that “there can be little doubt about the conclusion that homosexual orientation is associated with suicidality, at least among young men.” Gary Remafedi, M.D., \textit{Suicide and Sexual Orientation}, 56 Arch. Gen. Psychiatry 885-886 (October 1999).

\textsuperscript{40} David M. Fergusson et al., \textit{Is Sexual Orientation Related to Mental Health Problems and Suicidality in Young People?}, 56 Arch. Gen. Psychiatry 876, 879 (October 1999).
apparent the very strong intrinsic association between homosexuality and psychological
distress."\(^{41}\)

While the APA and some scientists tend to discount such research as reflecting merely
the effects of social stigmatization of homosexuals, completely ignoring such a wealth of strong
data to represent to the public that homosexuality is not associated with mental health problems
is misleading. The association is "far beyond that which one would think could be attributed
solely to the genuine and additional distress caused by social stigma and prejudice."\(^{42}\)
Researchers who find a connection between psychopathology and homosexuality are quick to
point out that "societal oppression" may indeed be a cause of this connection, but that other
possible explanations must also be explored.\(^{43}\) It may instead be true that "homosexuality
represents a deviation from normal development" that makes homosexuals susceptible to other
mental illnesses, or that the consequences of the homosexual lifestyle—including behavioral
risks associated with promiscuity and other sexual behaviors—increases psychopathology.\(^{44}\)
Whatever is the case, the APA’s categorical denial of any association between homosexuality
and mental illness is scientifically unsupported and misleading. It stifles needed investigation
that "might help distinguish between causes and consequences" of the associations between
homosexuality, suicidality, and psychopathology.\(^{45}\) As one researcher put it, "it would be a
shame . . . if sociopolitical concerns prevented researchers from conscientious consideration of
any reasonable hypothesis."\(^{46}\) By ignoring and/or suppressing research opposed to its public

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\(^{41}\) Jeffrey B. Satinover, TROJAN COUCH, supra n.8 at 30.
\(^{42}\) Id.
\(^{43}\) J. Michael Bailey, Ph.D., Homosexuality and Mental Illness, 56 Arch. Gen. Psychiatry 884 (October 1999).
\(^{44}\) Id.
\(^{45}\) Richard C. Friedman, M.D., Homosexuality, Psychopathology and Suicidality, 56 Arch. Gen. Psychiatry 887-888
(October 1999).
\(^{46}\) J. Michael Bailey, Ph.D., Homosexuality and Mental Illness, 56 Arch. Gen. Psychiatry 884 (October 1999).
stance on homosexuality, the APA has fraudulently misled the public regarding the connection between homosexuality and mental health problems.

C. Studies conducted of homosexuals not undergoing psychological treatment and without bias against homosexuality have not demonstrated the “untruth” that homosexuality is a mental disorder. The APA fails to acknowledge that the studies on which their statement is based were flawed because their sample populations were deliberately recruited to elicit the desired outcome. Further, even these studies actually demonstrated a “strong association among homosexuality, suicidality, and alcoholism” that went unreported by their researchers. The APA bases its statement on a myth that only biased research shows an association between homosexuality and psychopathology, because in it “gay men undergoing therapy seem [to be] dysfunctional, while volunteers from homophile organizations seem[] well.” However, contrary to the APA’s assertion that researchers “quickly found” that unbiased studies of homosexuals not undergoing treatment reveal that homosexuality is not a mental illness, “the best published data on the association between homosexuality and psychopathology ... converge on the same unhappy conclusion: homosexual people are at a substantially higher risk for some forms of emotional problems.”

In fact, the findings of a large Dutch study, where social acceptance of same-sex behaviors and orientation is high so that bias is not an issue, corroborates U.S. findings on the association between homosexuality and psychopathology. According to the Netherlands study, psychiatric disorders were more prevalent among homosexually active people compared to

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47 Jeffrey B. Satinover, TROJAN COUCH, supra n.8 30-45.
48 Id. at 36.
50 Id.
51 Theo G. M. Sandfort, Ph.D., Same-Sex Sexual Behavior and Psychiatric Disorders: Findings from the Netherlands Mental Health Survey and Incidents Study (NEMESIS), 56 Arch. Gen. Psychiatry 85 (October 1999).
heterosexually active people. Homosexual men had a higher 12-month prevalence of mood disorders and anxiety disorders than heterosexual men. Homosexual women had a higher 12-month prevalence of substance use disorders than heterosexual women. More homosexual than heterosexual persons had two or more disorders during their lifetime. These findings from a cross-section of the Dutch homosexual population support the conclusion that people with same-sex sexual behavior are at greater risk for psychiatric disorders.\textsuperscript{52} Therefore, the APA’s assertion that unbiased research of homosexuals not undergoing treatment has “quickly” shown that there is no connection between homosexuality and mental illness is a false representation, as is their misrepresentation of the very research they rely on to oppose this view, and represents scientific fraud and the deliberate suppression of truth.

\textbf{B. Commitment to Diversity and Open-Mindedness}

1. \textit{The APA’s “Widely Bugled Commitment to Diversity and Open-Mindedness.”}\textsuperscript{53}

The APA has a commendable history of being an advocate for racial, ethnic, and cultural diversity, including in its membership.\textsuperscript{54} Former presidents of the APA have been outspoken advocates for diversity and individual rights. For example, as a consequence of discrimination that “severely curtailed” or limited the choices of some such diverse individuals, past APA president Nicholas Cummings became a strong supporter of “rights” movements to “enhance[e] both opportunity and individual choice,” including the appointment of the APA’s first Task

\textsuperscript{52} \textit{Id.} at 85-90.
\textsuperscript{53} Rogers H. Wright, Ph.D., \textit{Can You Trust Your Friendly Mental Health Provider? Only Some of the Time!}, transcript of speech in the author’s possession. Rogers Wright is prominent within the APA, having been a past president of Division 12, founding president of Division 31, founding president of the Council for the Advancement of the Psychological Professions and Sciences (CAPPS), Fellow of the APA, a Diplomate in Clinical Psychology, the recipient of an honorary doctorate and a distinguished practitioner of the National Academies of Practice.
\textsuperscript{54} DESTRUCTIVE TRENDS at xviii.
Force on Lesbian and Gay Issues. Another former APA president, Dr. Robert Perloff, a fellow of APA’s Lesbian and Gay division, has in the past and continues to support gay and lesbian issues. Additionally, the APA has published numerous resolutions related to sexual orientation and homosexuality, two categories typically associated with the terms “diversity” and “open-mindedness.”

2. The Facts.

A. Lack of sociopolitical diversity. Diversity as one of psychology’s “core values” does not extend to sociopolitical diversity, as within the APA “conservatives are vastly underrepresented,” and even liberal members who disagree with the APA’s political position on homosexuality are poorly tolerated. “If psychology is to soar like an eagle, it needs both a left wing and a right wing.” So speaks Nicholas Cummings, who reports that in regards to enhancing the rights of homosexuals within the APA, the gay lobby has a “different agenda[] than that of freedom of choice . . . . [I]n their eyes[,] one has the right to be gay but one does not have the right to choose not to be homosexual.” The APA officially undermines diversity and open-mindedness by disparaging and opposing reorientation therapy for those who seek it, thus undermining a “patient’s right to choose the therapist and determine therapeutic goals.”

Tactics that Cummings personally experienced as examples of this lack of diversity and open-mindedness by homosexual advocates within the APA include “reverse discrimination,”

55 Nicholas A. Cummings, Ph.D., The Painful Education of a Well Intentioned APA President, transcript of speech in the author’s possession.
57 Id. at xviii.
58 Nicholas A. Cummings, Ph.D., The Painful Education of a Well Intentioned APA President, transcript of speech in the author’s possession.
59 DESTRUCTIVE TRENDS at xxx.
60 See supra fn. 19. Nicholas A. Cummings, Ph.D., The Painful Education of a Well Intentioned APA President, transcript of speech in the author’s possession.
barriers, delay, and prevention of research which lacks “predictably favorable outcomes,” and accusations of homophobia to intimidate, silence, and restrict the freedom of expression of those who disagree with the activists’ viewpoints. He notes that the APA is losing its credibility as scientists and professionals by its failure to keep individual member advocacy separate from the scientific and professional standards that must be upheld in order for the APA to remain a respected organization. Individual APA psychologists have always been, and continue to be, free to advocate individually as “concerned citizens” in favor of their preferred viewpoints. However, certain individuals within the APA have crossed the line into viewpoint advocacy through exploitation of the organization, and are misleading the public that such advocacy is presented on the incontrovertible basis of “scientific data and demonstrable professional experience.”

B. Lack of Open-Mindedness and Tolerance of Individual Choice. Perhaps the most significant evidence of the APA’s lack of tolerance, diversity, and open-mindedness regarding homosexuality is its opposition, hostility, and attempted suppression of psychotherapy aimed at assisting clients to change their sexual orientation. The APA council has now attempted three times to pass a resolution making “recovery therapy” per se unethical to perform, regardless of a client’s desire to pursue such therapy. Another former APA president, Dr. Robert Perloff, a Fellow of APA’s Lesbian and Gay division and personally a supporter of gay and lesbian issues, is firmly opposed to efforts within the APA’s gay community to “prevent psychotherapists from

61 Nicholas A. Cummings, Ph.D., The Painful Education of a Well Intentioned APA President, transcript of speech in the author’s possession.
62 Id.
63 Id.
64 Id.
65 Id; Rogers H. Wright, Ph.D., Can You Trust Your Friendly Mental Health Provider? Only Some of the Time!, transcript of speech in the author’s possession.
66 Nicholas A. Cummings, Ph.D., The Painful Education of a Well Intentioned APA President, transcript of speech in the author’s possession.
accepting clients who wished to develop their heterosexual potential." As a strong advocate of individual freedom of choice in matters of sexuality, he firmly argues that special interest groups, including the gay community, should not be permitted to tamper with an individual’s decision to transform his or her homosexuality into heterosexuality. Because of Perloff’s efforts, and those of a few other prominent APA leaders, coalitions were formed that have thus far prevented this code change.

Second, practitioners who practice such therapy have been threatened with removal from provider panel networks. If this were to become a widespread practice, not only would such psychotherapists be “prohibited or badgered out of existence,” but “the consequent unavailability of such services [would] restrict[ ] a patient’s freedom to choose.”

Finally, after the third failure by the APA’s gay coalition to amend its ethical code to prohibit practitioners from engaging in any therapy whose outcome is intended to change sexual orientation or preference, the APA published on its website certain Guidelines for Psychotherapy with Gay, Lesbian, and Bisexual Clients. In it, the only mention of “change” is to inform practitioners that they should explore clients’ “internal and external pressures” to change sexual orientation because they are the result of “negative stereotypes,” and that “agreement with the notion” that a client may seek change to cope with conflict or distress “may

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68 Id.
69 Id.
70 Id.
71 Nicholas A. Cummings, Ph.D., The Painful Education of a Well Intentioned APA President, transcript of speech in the author’s possession.
72 Rogers H. Wright, Ph.D., Can You Trust Your Friendly Mental Health Provider? Only Some of the Time!, transcript of speech in the author’s possession.
exacerbate the client’s distress.”
There is a complete absence of acknowledgment that some
homosexual individuals may actually desire to change because it more closely represents their
own values and choices. This rigid conclusion is hardly the view or action of a scientific
organization that is committed to the values of tolerance, open-mindedness, and diversity, but
rather those of an ideologically-driven special interest group intending to promote their social
agenda at the expense of true diversity and open-mindedness.

Many disgruntled members within the APA are aware of its hostility toward any research
or treatment outcomes at odds with gay affirmation, including at least two former presidents and
a past president of Division 12. Those who disagree with this position, who attempt to speak
out against it or attempt to publish research, are subjected to intimidation and attempts at
suppression. When Dr. Robert Perloff agreed to speak to one organization in support of “the
individual’s right for self-determination of sexuality,” he received a phone call from a former
APA Board of Directors member warning him of their “deep concern[]” at his “audacity and
political incorrectness” in making his address. Such actions are nothing more than deliberate
attempts intended to suppress open-mindedness and diverse scientific views regarding
homosexuality, its etiology, effects, and treatment. Some members of the APA have recently
resorted to a petition pleading with the president and governing boards of the APA to
“acknowledge, affirm and promote client autonomy, self-determination and diversity in matters
relating to human sexual adaptation,” something that would hardly need to be done if the APA
was acting in accord with its own stated ethical principles on diversity. Instead, the APA

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74 Id.
75 Linda Ames Nicolosi, Psychology Losing Scientific Credibility, Say APA Insiders, available at
http://www.narth.com/docs/insiders.html, also A. Dean Byrd, Book Review: Destructive Trends in Mental Health:
76 See, e.g., DESTRUCTIVE TRENDS at xviii, xx, xxx, 9-10, 17-18, 65-83.
77 A. Dean Byrd, Former APA President Supports NARTH’s Mission Statement, Assails APA’s Intolerance of
discriminates on this issue against members and groups of members within its ranks, even when they are participating in the APA’s own annual conference, when the specific program content—continuing education on the research and therapy of homosexuals—is “not consistent with APA policy”\textsuperscript{78}—a policy that, ironically, suppresses diversity and open-mindedness.

C. Homosexuality is Just as Healthy as Heterosexuality

1. The APA’s Material Misrepresentation.

A prominent headline on the APA’s web site under “sexuality” information for the public is one entitled “Being Gay is Just as Healthy as Being Straight.”\textsuperscript{79} Although the APA acknowledges the health threat of the HIV/AIDS epidemic, it consistently reiterates to the public mainly that not all gay persons are HIV infected,\textsuperscript{80} and that HIV spread can be prevented by education and safe sex.\textsuperscript{81} Despite the fact that “homosexuality involves a life-threatening behavior with an addictive component which has serious health implications,”\textsuperscript{82} neither the American Psychiatric Association nor the APA appears to acknowledge that homosexuality is not just as healthy as being straight, if only on the basis of its well-documented psychological and medical consequences.

2. The Facts.

A. Psychological Health and Homosexuality. Homosexuality is directly associated with the psychological health problems surveyed in Part II.A.2.b as well as bearing the unmistakable

\textsuperscript{78} Letter to NARTH members and supporters, March 2006.
\textsuperscript{79} Available at http://www.apa.org/topics/topicsbehavior.html.
\textsuperscript{81} APA Press Release, Based on the Research, Comprehensive Sex Education is More Effective at Stopping the Spread of HIV Infection, Says APA Committee: Research Shows that Abstinence Only Programs Have Limited Effectiveness and Unintended Consequences, available at http://www.apa.org/releases/sexeducation.html.
\textsuperscript{82} Kathleen Melonakos, Why Isn’t Homosexuality Considered a Disorder on the Basis of Its Medical Consequences?, available at http://www.narth.com/docs/consequences.html.
hallmarks of a lethal addiction parallel to alcoholism, warranting “a parallel [psychological or psychiatric] diagnosis.”\textsuperscript{83} Markers for addiction are reported in numerous studies of male homosexual behavior showing “compulsive patterns of promiscuity, anonymous sex, sex for money, sex in public places, sex with minors, concomitant drug and alcohol abuse, depression, [and] suicide,”\textsuperscript{84} and are further outlined in great detail in the book \textit{Homosexuality and the Politics of Truth}.
\textsuperscript{85} Additionally, continual acts of harmful sexual behavior despite awareness of their health risks show, at the least, elements of an addictive component. Given these markers of addiction, it is clear that the APA’s claim fails to acknowledge that there are homosexual subculture barriers preventing the consistent practice of safe sex, and that education efforts are unlikely to prevent high rates of new infection in these individuals.

As further evidence of compulsive and addictive components of a homosexuality-related disorder, Dr. Robert Cabaj, San Francisco County’s director of behavioral health services and past president of the Association of Gay and Lesbian Psychiatrists and the Gay and Lesbian Medical Association, suggests that one particular subculture of homosexuals, gay men who actively seek sexual encounters with HIV-infected men in deliberate attempts to become infected with the HIV virus, may represent as much as one-quarter of all new infections.\textsuperscript{86} This finding directly contradicts the APA’s rosy claim that education and safe sex make homosexuality just as healthy as heterosexuality. Indicators of addictions to dangerous sexual practices at such high levels in the homosexual population are completely ignored by this assertion.

\textsuperscript{83} Id.
\textsuperscript{84} Id.
\textsuperscript{86} Gregory A. Freeman, \textit{Bug Chasers}, Rolling Stone, available at http://www.rollingstone.com/features/featuregen.asp?pid=1525. “Bug chaser” is the term used by such men to identify themselves as seeking the HIV virus, while those willing to give them the virus call themselves “gift givers.” See also \textit{Alarming Number of HIV-Positive Gay Men Sought Infection, Says Health Official}, available at www.narth.com.
B. Physical Health and Homosexuality. Homosexuality is directly associated with a number of serious health risks, and it is time for Americans to insist on truth, not politics, from all of our professional organizations. The APA has, in connection with the American Psychiatric Association, become a “recklessly irresponsible ‘guardian[] of the public health’” regarding the mortality and morbidity directly associated with homosexuality, particularly AIDS.\(^7\) According to the World Health Organization, an estimated 1.04-1.2 million people were infected with HIV in the United States through the end of 2003.\(^8\) Not only are the majority of these infections of homosexual men, approximately 63% of all new HIV infections are transmitted by male homosexual sex.\(^9\)

The AIDS epidemic is driven overwhelmingly by behavior, with homosexual behavior as the primary means of transmission in the United States.\(^9\) Of the twenty-four categories of AIDS transmission listed by the U.S. Department of Health and Human Services, male homosexuality tops the list.\(^9\) Of 402,722 cases of cumulative AIDS cases reported through 2004, 55% involved the single mode of exposure of men who have sex with men.\(^2\) By including all modes of exposure that included male homosexual behavior, the sole or a potential cause of more than

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\(^7\) Kathleen Melonakos, *Why Isn’t Homosexuality Considered a Disorder on the Basis of Its Medical Consequences?*, available at [http://www.narth.com/docs/consequences.html](http://www.narth.com/docs/consequences.html).
\(^9\) Id.


\(^2\) 2004 HIV/AIDS Surveillance Report, Center for Disease Control and Prevention, Vol. 16, at 32, Table 17. The second most common method of transmission was injection drug use, which accounted for 21% of the AIDS cases.


\(^2\) Id.
seventy percent (70%) of all AIDS cases that have been reported in the United States from the first case through 2004 is male homosexual behavior.\textsuperscript{93}

And while both heterosexuals and homosexuals engage in unhealthy sexual practices, the "medical and social science evidence indicates that homosexual behavior is uniformly unhealthy."\textsuperscript{94} The very nature of sex between men exposes homosexual partners to greater than average risks of sexually transmitted diseases of many types,\textsuperscript{95} an anal cancer rate of infection that is at least 10 times higher than that of heterosexual males,\textsuperscript{96} and other physical problems such as damaged sphincter tissue leading to fecal incontinence, hemorrhoids, anal fissures, anorectal trauma, retained foreign bodies,\textsuperscript{97} and rectosigmoid tereas, allergic proctitis, and penile edema.\textsuperscript{98} A study of cancer incidence among male registered homosexual partners in Denmark likewise showed an elevated risk of cancer compared to cancer incidence among the general population.\textsuperscript{99}

Female homosexuals have been found to have a much higher proportion of the following health risks and diseases than their heterosexual counterparts: Hepatitis B & C, bacterial vaginosis (which is "associated with higher risk for pelvic inflammatory disease and other

\textsuperscript{93} Id.
\textsuperscript{94} John R. Driggs, Jr., M.D., The Health Risks of Gay Sex, Corporate Resource Council, available at ....
\textsuperscript{95} Id. Such STD's include Chlamydia trachomatis, cryptosporidium, Giardia lamblia, herpes simplex virus, human immunodeficiency virus, human papilloma virus, isospora belli, microsporidia, gonorrhea, viral hepatitis types B & C, and syphils. Id. at 3. Active homosexuals are also particularly vulnerable to enteric diseases such as Shigella infections, Campylobacter jejuni, Entamoeba histolytica, and cytomegalovirus. Kathleen Melonakos, Why Isn't Homosexuality Considered a Disorder on the Basis of Its Medical Consequences?, available at http://www.narth.com/docs/consequences.html.
\textsuperscript{96} John R. Driggs, Jr., M.D., The Health Risks of Gay Sex, Corporate Resource Council, at 4.
\textsuperscript{97} Id. at 3-4.
\textsuperscript{98} Kathleen Melonakos, Why Isn't Homosexuality Considered a Disorder on the Basis of Its Medical Consequences?, available at http://www.narth.com/docs/consequences.html.
sexually transmitted infections”), heavy cigarette smoking, intravenous drug use, abuse of alcohol, and prostitution.\textsuperscript{100}

Health professionals who see the tragic health consequences in their homosexual patients are increasingly concerned that the “normalization” of homosexuality is decreasing the life span and quality of life of increasing numbers of patients, and that efforts to “normalize” these unhealthy behavior patterns by groups such as the APA are tantamount to “criminal negligence.”\textsuperscript{101}

By deliberately ignoring the vast body of evidence regarding the health risks of homosexuality, of which a mere sampling has been presented, the APA recklessly disregards the truth when it states that “being gay is just as healthy as being straight.” Although I assert that the APA has actual knowledge of the falsity of its public representations that homosexuality is just as healthy as heterosexuality, fraud can be established in some states even by an assertion of something as a scientific fact where there is no reasonable ground for believing it to be true.\textsuperscript{102}

Given the wealth of medical and psychological research available, there is no reasonable basis for this statement by the APA. Further, those who speak with conscious ignorance or reckless indifference as to the truth of their representations may also be engaging in fraud.\textsuperscript{103} Considering that the APA supports homosexual orientation and behavior so strongly, it seems grossly inconsistent and reckless not to warn such individuals of the health risks they will face upon engaging in same-sex sexual behavior. Additionally, the heterosexual population is exposed to these risks by sexual contact with affected individuals, and the APA’s failure to warn of the health risks of homosexuality may result in exposure to individuals who would otherwise not

\textsuperscript{100} John R. Riggs, Jr., M.D., \textit{The Health Risks of Gay Sex}, Corporate Resource Council, at 6.

\textsuperscript{101} Kathleen Melonakos, \textit{Why Isn’t Homosexuality Considered a Disorder on the Basis of Its Medical Consequences?}, available at http://www.narth.com/docs/consequences.html.

\textsuperscript{102} \textit{Id.} § 123.
have participated in sexual acts with homosexual individuals. The APA’s actions in this regard are reminiscent of certain public health organizations during the early history of the spread of the HIV virus, which failed to take prompt action for fear of being “accused of homophobia,” and thus subjected the entire nation’s blood supply to contamination.\footnote{104} The APA may believe it is countering homophobia by its efforts to normalize gay sex and represent it as being “just as healthy” as heterosexual sex, but those efforts are recklessly indifferent to the truth.

D. Marriage

1. The APA’s Material Misrepresentation.

   In July 2004, the APA Council of Representatives adopted a Resolution on Sexual Orientation and Marriage calling for “a repeal of all discriminatory legislation against lesbians and gay men” including the prohibition on same-sex marriage.\footnote{105} Ostensibly based on the recommendations of “researchers who study same-sex families and relationships,”\footnote{106} the resolution states that “gay men and lesbians want and have committed relationships,” and attempts to refute three concerns about the relationships of gay men and lesbians believed to be a barrier to same-sex marriage: first, that they are “dysfunctional and unhappy,” that they are “unstable,” and that “the processes that affect the well-being and permanence of the[ir] relationships are different from those that affect the relationships of heterosexual persons.”\footnote{107}

2. The Facts.

\footnote{103 \text{30 C.J.S. Fraud \S 30.}}\footnote{104 \text{DESTRUCTIVE TRENDS at 6. See also Randy Shilts, And The Band Played On} (Penguin, 1987).}\footnote{105 \text{Resolution on Sexual Orientation and Marriage, APA Council of Representatives, available at http://www.apa.org/pi/lgbc/policy/marriage.pdf.}}\footnote{106 \text{R. Farberman, Council Actions include gay-marriage resolution. 35(9) Monitor on Psychology 24} (2004).}\footnote{107 \text{Id.}}
A. The APA's Council of "Representatives" are not very representative. Rather than being the unbiased group of researchers the APA insists they are, those appointed to the committee that recommended the resolution included: Armand Cerbone, who was inducted into the Chicago Gay and Lesbian Hall of Fame in 2003 and was recognized for distinguished service to the gay movement by the Society of Lesbian, Gay, and Bisexual Issues; Beverly Green, editor of Psychological Perspectives on Lesbian and Gay Issues, Kristen Hancock, who developed “Guidelines for Psychotherapy with Lesbian, Gay, and Bisexual Clients”; Lawrence A. Kurdek, Editorial Board of Contemporary Perspectives on Lesbian, Gay, and Bisexual Psychology, and Candace A. McCullough, whose partner Sharon Duchesneau was artificially inseminated from a deaf sperm donor to make it highly likely that their children would be born deaf because of their belief that deafness is not a medical condition but a cultural identity.108 That this group of researchers is particularly biased is shown by their failure to base their conclusions on relevant research, or to acknowledge or consider readily available research evidence contrary to their desired political ideology.

B. Research does not refute three major concerns about homosexual relationships.

According to Nicholas Cummings, the “scientific” proof the council used as the foundation for its recommendation advocating same-sex marriage was research findings concluding that “close relationships are mentally healthy,”109 hardly proof that homosexual relationships are generally functional and happy, and a rather shaky and unethical foundation for their broad claims. Rather, a number of studies have examined and documented violence and conflict in homosexual relationships. In one study, 90 percent of surveyed lesbians had been subjected to “one or more

109 Nicholas A. Cummings, Ph.D., The Painful Education of a Well Intentioned APA President, transcript of speech in the author’s possession.
acts of verbal aggression” by their intimate partners in the preceding year, and 31 percent reported at least one physically abusive incident.110 In another study, 54 percent of lesbian couples “had experienced 10 or more abusive incidents, 74 percent had experienced six or more incidents, 60 percent reported a pattern to the abuse, and 71 percent said it grew worse over time.”111 Among male homosexuals, domestic violence incidence is estimated to be “nearly double that in the heterosexual population.”112 The U.S. Department of Justice compared domestic violence incidence and found that heterosexual married men experience 0.5 percent of incidents of domestic violence, compared to 15.4 percent of homosexual men.113 Similarly, married heterosexual women experienced 0.26 percent of domestic violence incidents, compared to 11.4 percent of lesbian women.114

If domestic violence incidence alone is not enough to establish the “instability” of homosexual relationships that the APA resolution denies, statistics regarding partnership duration and stability of homosexual relationships surely is. By merely reversing the spin in the APA resolution’s statistical claim of relationship durability, their statistics reveal that 72-82 percent of gay couples and between 79-92 percent of lesbian couples have lived together for fewer than 10 years.115 Other research by the 2003-2004 Gay/Lesbian Consumer Online Census

114 Id.
has reported that 42 percent of all homosexual relationships last fewer than three years.\textsuperscript{116} Even in the Netherlands, a study of homosexual men found that steady partnership duration was 1.5 years.\textsuperscript{117} By comparison, for heterosexual men married for the first time between 1970 and 1974, 90.4 percent of marriage relationships lasted at least 5 years, while 72.5 percent lasted at least 10 years, and 55.8 percent lasted 20 years or more.\textsuperscript{118} Among heterosexual women, 84.5 percent of first marriages entered into between 1970 and 1974 lasted at least 5 years, while 67.7 percent lasted at least 10 years and 52.6 percent lasted 20 years or more.\textsuperscript{119} Even for second marriages entered into by men during 1975-1979, 90.8 percent lasted at least 5 years, while 49 percent have lasted for 20 years or more.\textsuperscript{120}

Not only is relationship duration substantially less for homosexual couples than for heterosexual couples, monogamy and sexual fidelity are “rare among GLB couples, particularly among gay males.”\textsuperscript{121} Instead, “gay men reportedly have sex with someone other than their partner in 66 percent of relationships within the first year, rising to approximately 90 percent if the relationship endures over five years.\textsuperscript{122} Number of lifetime sexual partners among homosexual men averaged 44.3 in 1994, three times as high compared to heterosexual men, who averaged 15.7 lifetime sexual partners.\textsuperscript{123} Among women, strictly heterosexual women had a mean of 4.9 lifetime sexual partners, whereas women who had ever had a same-gender sexual

\textsuperscript{116} Reported relationship duration of the 57\% of 7,862 gay and lesbian respondents who reported they were currently in a same-sex partnership rather than single, dating, or other. Source: 2003-2004 Gay/Lesbian Consumer Online Census, available at: \url{http://glcensus.org/press/02052004.html}.

\textsuperscript{117} Maria Xiridou, et al., \textit{The Contribution of Steady and Casual Partnerships to the Incidence of HIV Infection among Homosexual Men in Amsterdam}, 17 AIDS 1032 (2003).

\textsuperscript{118} \textit{Number, Timing, and Duration of Marriages and Divorces: 2001}, U.S. Census Bureau, available at: \url{http://www.census.gov/prod/2005pubs/p70-09.pdf}.

\textsuperscript{119} \textit{Id.}

\textsuperscript{120} \textit{Id.}

\textsuperscript{121} John R. Riggs, Jr., M.D., \textit{The Health Risks of Gay Sex}, Corporate Resource Council, at 8.

partner averaged 18.7 lifetime sexual partners, or four times as high as heterosexual women.\textsuperscript{124} Another study reported that only 3 percent of homosexual men have had fewer than 10 sexual partners, whereas 28 percent reported 1000 or more sexual partners.\textsuperscript{125} In this study, 60 percent of homosexual men reported 250 or more sexual partners, with 43 percent reporting 500 or more sexual partners, and between 51-79 percent of these men reporting that their sexual partners were strangers to them.\textsuperscript{126}

Discrimination is based upon equal things being treated unequally. Given the very large differences in the functionality and happiness, the stability, and the permanence of gay couple relationships compared to heterosexual couples, the APA's claim that "psychological research on relationships and couples provides no evidence to justify discrimination against same-sex couples"\textsuperscript{127} is simply false. There is no discrimination where law, policy, and science merely draw a distinction between dissimilar entities. Where is any reference in the APA's resolution to any of these readily available statistics and studies? Once again, "[t]he overwhelming mountain of contrary evidence is simply never mentioned."\textsuperscript{128} This resolution is particularly troublesome considering that a vocal 2-3 percent minority is proposing a scientificallyunsupported change that would dramatically impact 98 percent of the population.\textsuperscript{129} Here again, the APA has falsely presented its resolution as the result of definitive and relevant scientific research, rather than as the political advocacy and suppression of truth that it is.

\textsuperscript{124} Id.
\textsuperscript{126} Id.
\textsuperscript{128} Jeffrey B. Satinover, \textit{TROJAN COUCH}, supra n.8, powerpoint presentation.
E. Child-Rearing

1. The APA’s Material Misrepresentation.

In July 2004, the same APA Council of Representatives mentioned above also adopted a Resolution on Sexual Orientation, Parents, and Children decrying discrimination in the areas of reproductive health services, adoption, foster care, and child custody and visitation.\textsuperscript{130} One committee member stated that the APA desired to “inform the public debate with research literature as quickly as possible,” and another stated that the committee was aware of the need to “sort out what we can say as professional psychologists and what topics are not our province.”\textsuperscript{131} Touting its basis in “years of psychological research,”\textsuperscript{132} the resolution concludes that “[t]here is no scientific basis for concluding that lesbian mothers or gay fathers are unfit parents on the basis of their sexual orientation” and that “the development, adjustment, and well-being of children with lesbian and gay parents do not differ markedly from that of children with heterosexual parents.”\textsuperscript{133}

2. The Facts.

In perhaps this area more than any other, the APA’s political activism masquerading as science has misled the American public and judiciary. Researchers have been conducting studies of child development for decades, and there is a vast and well-established body of research that, alarmingly, the authors of the APA resolution failed to acknowledge supporting an opposite

\textsuperscript{129} Based on data reported by the Center for Disease Control. See World Net Daily, 2.3% see selves as homosexual, September 16, 2005, available at http://www.wnd.com/news/article.asp?ARTICLE_ID=46356.
\textsuperscript{131} Len Winerman, Timely Action, 35(1) Monitor 48 (November 2004).
\textsuperscript{132} Id.
conclusion than the one they reached. This represents a blatant attempt at social and political advocacy at odds with the obligations of a professional organization committed to "scientific validation [and] professional efficacy." 134 Considering that this resolution has the potential to seriously impact the most vulnerable members of our society, it is especially important that "when scientific claims bear on matters of social policy, the standards of evidence and of self-criticism must be extremely high." 135 Further, the APA committee based its resolution on research that "suffer[s] from severe methodological flaws," 136 as well as propaganda "disguised as research" 137 by Charlotte J. Patterson, whose studies were questioned and subsequently excluded from a Florida court because of Patterson's use of herself and her friends as subjects and her unwillingness to comply with a court order to provide documentation utilized in her studies to either side of the conflict. 138

The APA is the only mental health organization ever to have been censured by the House of Representatives and the Senate of the United States, ironically over an issue regarding children. 139 In one of its journals, an analysis of previous case studies was published suggesting that sexual molestation by pedophiles may not be harmful to the children who experience it. 140 In the ensuing uproar, psychologists testified before Congress defending the importance of "academic freedom and uncensored scientific research" while leaving condemnation of

134 DESTRUCTIVE TRENDS at xiii.
138 Petitioner v. Floyd P. Johnson (cite). See also Jeffrey B. Satinover, TROJAN COUCH, supra n.8, powerpoint presentation.
139 DESTRUCTIVE TRENDS at xvii.
140 Id.
pedophilia as a distant afterthought. As a result, the APA was unanimously censured by both the House and the Senate, which leaves open the question of how much distrust the public should have for both the APA’s science and its interest in the well-being of children.

A. Homosexual parenting has not been studied long enough, nor are there clear enough results from reliable research, to support the APA’s statements. First, the APA resolution on homosexual parenting was supported by methodologically flawed research that was presented with bias. The data of Golombok, Spencer, and Rutter, as well as that of Golombok and Tasker relied on in the resolution, was reanalyzed by R. N. Williams in 2000, who found both methodological flaws and significant but unreported differences. While the resolution states that this research showed no differences in child development of sexual identity as a result of being raised by homosexual parents, the reanalysis revealed a significant number of children to either have considered or already engaged in a homosexual relationship. And while the APA’s resolution concluded that “other aspects of personal development . . . reveal few differences” between children raised by homosexual and children raised by heterosexual parents, the reanalysis showed that there were in fact differences in self-esteem as well as

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141 Id.
142 Id.
other unreported differences in social and emotional difficulties experienced by children of homosexual parents.\textsuperscript{149}

The research of Stacey and Biblarz\textsuperscript{150} was cited by the resolution in support of the propositions that there are few differences in personal development between children of lesbian mothers and children of heterosexual parents, and that such children have normal social relationships with peers and adults.\textsuperscript{151} Actually, the Stacey and Biblarz study was a meta-analysis that repudiated over 20 years of research which had been said to show that there were no differences between children raised by homosexual and heterosexual parents. Rather, the researchers found that lesbian mothers had a feminizing effect on their sons and a masculinizing effect on their daughters, and that “the adolescent and young adult girls raised by lesbian mothers appear to have been more sexually adventurous and less chaste.”\textsuperscript{152}

And finally, as previously mentioned, of particular concern was the committee’s heavy reliance on the research of Charlotte J. Patterson. Patterson, who is raising three children with her lesbian partner, has been a “radical homosexual activist” since the early 1990s.\textsuperscript{153} One of her studies heavily relied on in the resolution is \textit{Children of Lesbian and Gay Parents: Research, Law and Policy}, in which she frequently cites her own research in support of the conclusion that “children of lesbian couples are as happy and well-adjusted as children living in traditional homes.”\textsuperscript{154} She goes on to recommend that same-sex marriage, adoption by same-sex couples,

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\item \footnotesize{\textsuperscript{149} R. N. Williams, \textit{A Critique of the Research on Same-Sex Parenting}, in Strengthening Our Families 352-355 (D. C. Dollahite, ed., Bookcraft, 2000).}
\item \footnotesize{\textsuperscript{150} J. Stacey and T. J. Biblarz, \textit{How Does Sexual Orientation of Parents Matter?} 65 Am. Sociological Rev. 159-183 (2001).}
\item \footnotesize{\textsuperscript{151} Resolution on Sexual Orientation, Parents, and Children, APA Council of Representatives, available at http://www.apa.org/pi/lgbc/policy/parents.html.}
\item \footnotesize{\textsuperscript{152} Stacey and Biblarz at 171.}
\item \footnotesize{\textsuperscript{153} Gerald Schoenewolf, Ph.D., \textit{When Propaganda is Disguised as Research: The Case of Charlotte J. Patterson}, available at http://www.narth.com/docs/patterson.html.}
\item \footnotesize{\textsuperscript{154} Id.}
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and "second-parent adoptions" be legalized throughout the United States.\textsuperscript{155} According to the research and analysis of Gerald Schoenewolf, Ph.D., Patterson's research and conclusions were based on two teenaged groups of 44 children each, who were given very subjectively-scored projective tests and interviewed regarding their sexual orientation, mood, and social adjustment.\textsuperscript{156} The extremely small sampling size as well as the bias inherent in projective testing, especially in a case where the researcher was highly motivated to interpret the children's responses in a manner favorable to her premises, is hardly sufficient "scientific data" upon which to base such a broad-reaching resolution.\textsuperscript{157} Other researchers have reported similar problems with the other research upon which the APA's resolution was based.\textsuperscript{158}

B. \textit{Research overwhelmingly supports the advantages of dual-gender parenting.} Second, the resolution ignores a vast body of research conducted over decades that clearly shows that dual-gender parenting is protective of children, because "men and women contribute differently" to their development.\textsuperscript{159} A 2005 summary of such research identified important differences between male and female parenting in the areas of emotional coping skills and regulation; different types of play, touch, and soothing; discipline styles, and gender-specific styles of expressing love.\textsuperscript{160} The consequences of these differences affect a developing child's ability to resist stress, develop self-control, manage his or her emotions, achieve intellectually and

\textsuperscript{155} \textit{Id.}
\textsuperscript{156} \textit{Id.}
\textsuperscript{157} \textit{Id.}
\textsuperscript{158} \textit{Id.}, citing D. Baumrind, \textit{Commentary on sexual orientation: Research and social policy implications}. 31(1) Developmental Psychology 130-136 (1995), who states that "[m]ost of the studies are based on small samples of convenience, retrospective data, or self-report instruments subject to social desirability biases" and that the studies generally failed to "explore[] theoretically relevant hypotheses concerning adolescent outcomes or use[] intensive observational and interview methods most likely to reveal possible problems such as identity diffusion or parent child enmeshment." \textit{Id.} at 134. For excellent and specific critiques of such studies, see George Rekers and Mark Kilgus, \textit{Studies of Homosexual Parenting: A Critical Review}, Regent Law Review (cite), and Jeffrey B. Satinover, TRÖJAN COUCH, supra n.8 at 27-45.
\textsuperscript{160} \textit{Id.}
academically, and develop social skills and confidence.\textsuperscript{161} It also affects behavioral outcomes such as sexual behavior and development, psychiatric and physical health,\textsuperscript{162} and social problems such as "child poverty, urban decay, societal violence, teenage pregnancy, and poor school performance."\textsuperscript{163} Single-gender dual parenting does not provide these gender-specific parental contributions.

In addition to research that quantifies and supports the importance of dual-gender parenting, there are studies that point to problems and difficulties with homosexual parenting, namely that such children are more likely to practice homosexual behavior\textsuperscript{164} and experience sexual confusion.\textsuperscript{165} Further, children are placed at risk by having one or more parents who are subject to the risk factors identified in Part II.A.2.b, namely increased domestic violence, parental relationship instability and turnover, mental illness, substance abuse, suicidal tendencies, and shortened life spans.\textsuperscript{166}

The APA’s resolution on Sexual Orientation, Parents, and Children is a social policy statement based on research that is tainted and flawed while ignoring a much broader body of research that reveals a contrary position. Not only does such action breach the trust of the general public and a judiciary who may rely on these misrepresentations, it threatens the APA’s credibility as a professional and scientific organization, amounting to scientific fraud that endangers the most vulnerable members of our society.

\textit{F. Change as a Potential Treatment Goal}

\textsuperscript{161} Id.
\textsuperscript{162} Id.
\textsuperscript{163} Louise B. Silverstein and Carl F. Auerbach, Deconstructing the Essential Father, 54(6) Am. Psychologist 397 (1999), referring to research by Biller & Kimpton, 1997; Blankenhorn, 1995; and Popenoe, 1996.
\textsuperscript{166} See supra Part II.A.2.b.
1. **The APA's Material Misrepresentation.**

According to the APA's public fact sheet entitled *Answers to Your Questions about Sexual Orientation and Homosexuality*, sexual orientation "does not require treatment and is not changeable."\(^{167}\) Further, it states that although homosexuality is "most likely the result of a complex interaction of environmental, cognitive and biological factors" and that "there are probably many reasons for a person's sexual orientation and the reasons may be different for different people," the APA's public fact sheet states that sexual orientation is completely immutable and "human beings can not choose to be either gay or straight."\(^{168}\) Further, although it indicates that change in sexual orientation may at times be sought by individuals who are "pressured by the influence of family members or religious groups," the APA "oppos[es] . . . homophobia in treatment [and supports a client's right to] self-determination" regarding treatment, which may be sought for the same reasons as any other client or to deal with "the coming out process or for strategies to deal with prejudice."\(^{169}\) Additionally, "so-called conversion therapy" claims are "poorly documented" and "come from organizations with an ideological perspective that condemns homosexuality."\(^{170}\)

2. **The Facts.**

   **A. Homosexuality is changeable.** No less a researcher than the leading sponsor for removing homosexuality as a DSM-IV diagnosis in 1973, Dr. Robert Spitzer, has found that the

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\(^{168}\) *Id.*

\(^{169}\) *Id.*

\(^{170}\) *Id.*
homosexual orientation can and does indeed change.171 Dr. Spitzer’s 2001 study, reported in the *Archives of Sexual Behavior* in 2003, supported the hypothesis that some individuals whose sexual orientation is predominately homosexual can become predominately heterosexual following some form of therapy.172 The subjects were 200 self-selected individuals (143 males, 57 females) who reported at least some minimal change from homosexual to heterosexual orientation that lasted at least five years.173 “The changes encompassed sexual attraction, arousal, fantasy, yearning, and being bothered by homosexual feelings. The changes encompassed the core aspects of sexual orientation. Even subjects who only made a limited change nevertheless regarded the therapy as extremely beneficial.”174

Spitzer concluded that 66 percent of the men and 44 percent of the women had arrived at what he called “good heterosexual functioning.”175 Further, 88 percent of men and 95 percent of women said they were bothered only slightly, or not at all, by unwanted homosexual feelings.176 Subjects also reported “benefit from nonsexual changes, such as decreased depression, a greater sense of masculinity in males, and femininity in females, and developing intimate nonsexual relationships with the same sex.”177 Dr. Spitzer’s conclusion was that “some gay men and lesbians, following reparative therapy, report that they have made major changes from a predominately homosexual orientation to a predominantly heterosexual orientation.”178 “Like most psychiatrists,” says Dr. Spitzer, “I thought that homosexual behavior could be resisted, but

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172 *Id.* at 405.
173 *Id.*
174 *Id.* at 413.
175 *Id.* at 411.
176 *Id.* at 410.
177 *Id.* at 413.
178 *Id.*
sexual orientation could not be changed. I now believe that to be false. Some people can and do change.”

In a 2001 article in The Wall Street Journal, Dr. Spitzer states that “change should be seen as complex and on a continuum.” Indeed, this “continuum,” or the fluctuation and instability of sexual orientation and behaviors over the lifetime of a single individual, is one of the great difficulties involved in conducting research with a homosexual population or even counting the numbers of homosexual individuals. “Defining” homosexuality for the purposes of research becomes very challenging, and the definitions used are often study-specific. And while gay activists may acknowledge this continuum, they seem to deny that individuals who move in one direction on that continuum might possibly be experiencing an enduring change toward both heterosexual orientation and functioning, something that research has shown does occur both spontaneously as well as following treatment.

Dr. Spitzer’s findings are just one study reporting the changeability of homosexual orientation. There are many others. But for purposes of this paper, what is important is that debate about Dr. Spitzer’s study has been, and continues to be, suppressed by gay advocates within the APA. Additionally, it is reported that debate within the APA has also been suppressed about subsequent studies supporting Dr. Spitzer’s results. The APA’s assertion acknowledges none of these, or earlier studies, that document change. Nevertheless, the results

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179 A. Dean Byrd, Dr. Robert L. Spitzer, the Scientist, the Man, published where? Find original quote.
182 Jeffrey B. Satinover, TROJAN COUCH , supra n.8 at 50-93.
of Spitzer’s study alone impugn the truth of the APA’s assertion, and reveal that homosexuality is, indeed, changeable.

B. **Homosexuality’s complex etiology is inconsistent with the APA’s claim that homosexuality is an immutable characteristic subject to neither change nor choice.** The APA’s fact sheet does correctly state that homosexuality is “most likely the result of a complex interaction of environmental, cognitive and biological factors.”

Reputable reviews of biologic theories of homosexuality have shown that “evidence favoring a biologic theory [is] lacking,” and that homosexuality is likely a biopsychosocial phenomenon rather than simply a biological mechanism. Yet while biological determinates such as those resulting in skin color and gender are immutable and not subject to change, by their very nature, cognitive, environmental, and behavioral determinates are always subject to change. Therefore, the APA’s claim that homosexuality is the result of a “complex interaction of environmental, cognitive, and biological factors” is inconsistent with its assertion that sexual orientation cannot be chosen or changed. Rather, it seems to imply that once this “complex interaction” has occurred, no further movement in sexual orientation is possible, unless it is in the direction of greater homosexual identity, behavior, and affirmation. This is at odds with the very nature of cognitive, environmental, and behavioral influences.

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187 Richard C. Friedman & Jennifer Downey, *Neurobiology and Sexual Orientation: Current Relationships*, 5(2) Journal of Neuropsychiatry 149 (Spring 1993). See also Gerard van den Aardweg, Ph.D., *Homosexuality and Bodily Factors: Real Evidence: None; Misleading Interpretations: Plenty*, manuscript in possession of author, for a description of how psychological, cognitive, and environmental factors can result in homosexual functioning that is not revealed by any “single genetic, physiological, anatomical, or neuroanatomical correlate.”

This does not mean that all persons can or should change their sexual orientation. Dr. Spitzer would be the first to refute this merely on the basis of homosexuality’s complex etiology rather than its immutability.\textsuperscript{189} However, as the APA states, because “there are probably many reasons for a person’s sexual orientation and the reasons may be different for different people,”\textsuperscript{190} it is also likely that for many persons who desire treatment, psychotherapeutic efforts involving cognitive, developmental,\textsuperscript{191} and behavioral therapy can and will result in change. Therefore, the APA’s official position is, obviously, inconsistent with itself.

\textbf{C. APA policy does not support patient self-determination.} “Patients should . . . have the right to explore their heterosexual potential,” according to Dr. Robert L. Spitzer.\textsuperscript{192} Spitzer was frustrated with mental health professionals who continually reduced a patient’s desire to change as “succumbing to society’s pressure,”\textsuperscript{193} and renounced the mental health professions for “moving in the direction of banning” reorientation therapy.\textsuperscript{194} Dr. Rogers Wright reports that “gay groups within the APA have repeatedly tried to persuade the association to adopt ethical standards that prohibit therapists from offering psychotherapeutic services designed to ameliorate ‘gayness,’ on the basis that such efforts are unsuccessful and harmful to the consumer.”\textsuperscript{195} Drs. Nicholas Cummings and William T. O’Donohue further report that such resolutions have been proposed “with the intent of perpetuating homosexuality, even when the homosexual patient

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\textsuperscript{190} Answers to Your Questions About Sexual Orientation and Homosexuality, American Psychological Association, information for the public on sexuality, available at \url{http://www.apa.org/topics/orientation.html}.
\textsuperscript{191} There are many theories of homosexual development that address non-immutable factors. \textit{See, e.g.}, Daryl J. Bern, \textit{Exotic Becomes Erotic: A Developmental Theory of Sexual Orientation}, 103(2) Psychological Review (1996) (This theory posits that children who conform to gender norms perceive those different from them as exotic, and eventually during puberty, erotic; while those who are gender-nonconforming during childhood come to perceive their same-sex peers as different, and eventually erotic); [and so on – insert research here].
\textsuperscript{192} Spitzer press release, available at \url{www.narth.com}.
\textsuperscript{194} Id.
\textsuperscript{195} Destructive Trends at xxx. See also Answers to Your Questions About Sexual Orientation and Homosexuality, American Psychological Association, information for the public on sexuality, available at \url{http://www.apa.org/topics/orientation.html}.\end{flushleft}
willingly and even eagerly seeks treatment." Homosexual activists within the APA have also sought resolutions that would “punish therapists for practicing reorientation therapy.”

Reportedly, the “threat of lawsuits” if these resolutions were adopted is the primary reason the APA has not adopted them, along with some courageous efforts by Rogers H. Wright and former APA president Robert Perloff and the coalition members they were able to lead to oppose the resolutions.

Furthermore, the APA refuses to permit the National Association for Research & Therapy of Homosexuality (NARTH), a prominent scientific organization consisting of many APA members who research, publish, and treat homosexuality, from debating within the APA, or even announcing its meetings in APA publications. Instead, the APA proponents of these resolutions “deride[s] colleagues who provide such treatment to patients seeking it,” and label them as “homophobic.” In this context, however, “homophobia is just a propaganda word that gay activists use . . . an epithet, a scare word . . . to silence anyone who does not automatically accept the ‘normalcy’ of same-sex sex.”

Dr. Nicholas Cummings reports personal examples of being “branded as homophobic” when he “objected to the public nudity and sexual antics of some gay parades” at APA meetings. Further, he and Rogers H. Wright, editors of Destructive Trends in Mental Health, reported that a “number of potential contributors . . .

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196 Id. at 17.
198 Id.
199 See Destructive Trends at 17.
201 Destructive Trends at 18.
202 Destructive Trends at xxx and Chapter 4.
204 Nicholas A. Cummings, Ph.D., The Painful Education of a Well Intentioned APA President, speech presented at the 2005 NARTH Conference.
declined to participate” because of the fear of “consequences for violating political correctness,” particularly from the APA’s gay lobby.\textsuperscript{205}

The efforts by the APA to prohibit reorientation therapy, punish its practitioners, silence research and debate either overtly or through intimidation, as well as both distorting and keeping the knowledge of reorientation therapy from the public, clearly reveal that the APA does not support patient self-determination when it comes to homosexuality. Not only is this unethical, the APA’s statements materially mislead the public about its respect for patient self-determination and reveal its social and political, rather than scientific, agenda.

C. \textit{Reputable scientific organizations and researchers have methodically documented conversion therapy. Nor do they “condemn” homosexuality.} Along with Dr. Robert Spitzer’s 2001 research, many other clinicians and researchers have documented changes in sexual orientation after therapy.\textsuperscript{206} For example, Dr. Charles W. Socarides, a clinician for over 40 years, published over 80 peer-reviewed articles and wrote 15 books regarding his research and treatment of homosexuality and other psychiatric issues.\textsuperscript{207} NARTH, one of the leading scientific organizations whose members research and conduct conversion therapy, has also extensively documented conversion therapy efforts, both the limitations and successes, of its practitioners.\textsuperscript{208}

\textsuperscript{205} \textit{Id.} Although lamenting the unfortunate “oppression by oppressed people” when labels like “homophobic” are used by gay activists against those opposed to their advocacy, he did note that sometimes such accusations present a ludicrous picture that reveals their use as an intimidation tool, such as the conflict when gay rights and animal rights meet:

\begin{quote}
In San Diego the People for the Ethical Treatment of Animals (PETA) picketed a motorcycle meeting of gay bikers because the latter, also known as “leather queens” and “dykes on Bikes,” have a fetish for leather, ostensibly resulting in thousands of needlessly killed animals. The bikers responded that PETA is homophobic.
\end{quote}


\textsuperscript{207} \textit{See, e.g.,} Charles W. Socarides, M.D., \textit{Homosexuality: A Freedom Too Far} (Margrave, 1995).

\textsuperscript{208} \textit{See, e.g.,} www.narth.com.
Not only have these and many other researchers carefully documented their efforts, there is substantial evidence that those who treat individuals for unwanted homosexuality or for the physical effects of homosexuality have great compassion for these suffering individuals. For example, Dr. Socarides dedicated his book, *A Freedom Too Far*, to his patients, “whose courage and endurance in the search for self-knowledge” was accorded his utmost respect and admiration.²⁰⁹ Dr. Jeffrey Satinover, who began treating individuals with homosexuality-related disorders in the inner city of New York in 1981, wrote regarding his feelings about these individuals: “How . . . could anyone add to th[ei]r burden by criticism of any sort, however tempered?”²¹⁰ While many researchers and practitioners may have little patience with the gay activist agenda, which “abrogate[s] the patient’s right to choose the therapist and determine therapeutic goals,”²¹¹ many of the most outspoken of these are supporters of an individual’s right to “choose the goals for their own individual []therapy,”²¹² support “civil rights [for] homosexuals,”²¹³ have “a commitment to gay rights, with freedom from discrimination,”²¹⁴ and support individuals in avoiding “any provider who attempts to inject personal philosophy, goals, or outcomes into the therapeutic effort.”²¹⁵ NARTH’s position statement on its web site and in its publications repeatedly states that “NARTH respects each client’s dignity, autonomy and free


> I have been extraordinarily fortunate to have met many people who have emerged from the gay life. When I see the personal difficulties they have squarely faced, the sheer courage they have displayed not only in facing these difficulties but also in confronting a culture that uses every possible means to deny the validity of their values, goals, and experiences, I truly stand back in wonder. . . . I have simply never before seen such profound healing.

*Id.*
²¹¹ Rogers Wright, [DESTRUCTIVE TRENDS at xxx.](http://www.narth.com/docs/sotribute.html)
²¹² Nicholas A. Cummings, Ph.D., *The Painful Education of a Well Intentioned APA President*, speech presented at the 2005 NARTH Conference.
²¹⁴ Nicholas A. Cummings, Ph.D., *The Painful Education of a Well Intentioned APA President*, speech presented at the 2005 NARTH Conference.
agency. We believe that clients have the right to claim a gay identity, or to diminish their homosexuality and to develop their heterosexual potential.” Statements by all of these are hardly a “condemnation” of homosexuality. While no doubt there are some individuals and organizations who may indeed “condemn” homosexuality while making “poorly documented conversion therapy claims,” it is simply false that all scientists and organizations do so. Thus again, the APA reveals itself to be more concerned about presenting a social and political agenda than about science, and to have materially misled the public with this claim.

III. JUDICIAL RELIANCE ON THE APA’S FALSE MISREPRESENTATIONS

The misuse and misrepresentation of research by the APA has been relied on by the highest court in the land, the United States Supreme Court, in the cases Lawrence v. Texas, and Romer v. Evans. It has been relied on in state courts, most notably in Massachusetts’ Goodridge v. Dept. of Public Health mandating same-sex marriage. These false representations induced reliance that has subsequently “distort[ed] social policy” as well as legal policy, and because of this reliance, satisfies the final element in the case of scientific fraud.

Dr. Jeffrey B. Satinover, a psychiatrist, researcher, author, and lecturer on constitutional law, did an extensive analysis of the APA’s briefs in Lawrence and Romer, and found them to be written by the same small group of “experts,” all of whom he found to be either unqualified or to

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215 Rogers H. Wright, Ph.D., Can You Trust Your Friendly Mental Health Provider? Only Some of the Time!, speech presented at the 2005 NARH Conference.
221 Jeffrey B. Satinover, TROJAN COUCH supra n.8, at 27.
have falsified or misrepresented their own or other legitimate research to the Court, but who
nevertheless cite themselves as “substantiating authorities.”223 In the Lawrence brief,224 the APA
misrepresented “all demographic and developmental questions” regarding homosexuality, in
particular those relating to whether homosexuality “can be used as a defining trait for “suspect
class status.”225 The Romer brief226 references are linked to those in Lawrence, and in both
briefs, only a limited number of “authorities” are referenced.227 Usually, these authorities are not
directly quoted, particularly one researcher whose results are not quoted because they are
actually “directly contrary to the claims made” by the authors of the briefs.228 Other so-called
authorities have “dubious credentials,” such as one “editor of a Dutch advocacy journal of
pedophilia” being cited as “an expert in the development of gender identity of adolescence,” and
others who turn out to be “completely unfamiliar with the research they are supposed to be
experts in, and get very simple facts completely wrong.”229 Both briefs advocate suspect class
status for homosexuals based on “one extraordinarily poorly conducted study [of therapeutic
situations only] that favors their argument,” while ignoring the “very high rate of spontaneous
mutability” of homosexuality found by one of their most important authorities, and the
subsequent studies that confirm his finding.230

A. The Lawrence Brief

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222 37 Am. Jur. 2d Fraud and Deceit § 23.
223 Jeffrey B. Satinover, TROJAN COUCH supra n.8, at 4-5.
225 Jeffrey B. Satinover, TROJAN COUCH supra n.8, at 4-5.
227 Jeffrey B. Satinover, TROJAN COUCH supra n.8, at 4-5.
228 Id. at 5.
229 Id.
230 Id., referring to the Laumann study.
The foundational premise of the *Lawrence* brief is that homosexuality is not a disorder. This premise is simply assumed to be true, despite the “reality . . . that science has never even remotely come close to demonstrating any such thing, ever,” as shown in the preceding section’s discussion of the removal of homosexuality from the *Diagnostic and Statistical Manual*, and even more carefully documented by Satinover’s research into this decision and the studies used in support of this decision. Supporting this premise in the *Lawrence* brief are “no citations where they’d be helpful,” or “empty citations” to authorities categorized by Satinover into two types. The first type are authorities who are “intrinsically not authoritative,” because citations referring to them in support of a proposition reveal them to be merely “reviews of studies” or even “reviews of opinion pieces” that are too old (between 20 and 50 years old), not based on the work of adequately qualified research scientists, or are studies that have been thoroughly discredited (for example, in one study heavily relied on, the researcher even “destroyed her files [during the time her study was being cited in major Supreme Court cases] so that one can no longer confirm or disconfirm the validity of her research.”) Satinover carefully examines the studies referred to in these reviews, and documents their bias, flaws, and methodological problems. He describes the brief authors’ presentation of the literature as “slight of hand.”

The largest bulk of the literature is passed over with a wave of the hand in the form of reviews and reviews of reviews that never accurately characterize the full picture; then select certain studies keep being presented and re-presented, again and again, no matter how hoary, not because of their great scientific merit, but because they are the only ones so lacking in merit that they can be somewhat safely trotted out when needed.

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231 *Id.* at 27.
232 *Id.* at 27-28.
233 *Id.* at 28-29, 45.
234 *Id.* at 31-45.
235 *Id.* at 30.
236 *Id.*
The second type of authorities cited is the “intrinsically authoritative” researchers, who nevertheless are cited incorrectly, or are “carefully chosen and highly unrepresentative of the literature as a whole.”237 One co-author of the brief who is cited as an authority in it, Susan Cochran, Ph.D., misrepresented her own research findings by failing to report that she found higher incidence of suicide, depression, anxiety, mood and substance use disorders, poor mental health, and other health risk factors among the homosexuals she studied when compared to their heterosexual counterparts, which could not be “entirely attributed to discrimination and bigotry.”238 Another author, Gregory Herek, Ph.D., cites to his own publications 48 times out of a total of 63 footnotes in the Lawrence brief, amounting to 33% of the references.239

B. The Romer Brief

The APA’s Romer brief had many of the same problems as the Lawrence brief. Here, the authors of the brief sought suspect class definition for homosexuals citing to a mammoth 700+ page study by Edward O. Laumann in a highly visible way—while at the same time failing to actually discuss his relevant conclusions, nor even mentioning the numerous follow-up studies that confirm them.240 Perhaps this was because the study, called The Social Organization of Sexuality: Sexual Practices in the United States,241 documents that sexual identity is flexible, not fixed,242 which is at odds with requesting the Court to consider “‘sexual orientation’ . . . well-defined enough to be meaningfully spoken of and in particular used legally for suspect class

237 Id. at 29.
238 Id. at 46-48.
239 Id. at 49.
240 Id. at 49-55.
242 Jeffrey B. Satinover, TROJAN COUCH supra n.8, at 52-53.
purposes.” Instead, both briefs took particular care to establish that homosexuality is a fixed trait that supports suspect class definition, a finding at odds with Laumann’s conclusions, which have been replicated on numerous occasions.

Perhaps this was also because Laumann’s study makes overwhelmingly clear that “childhood sexual experience is a major environmental factor in the lives of homosexual men and women,” and is “intimately linked to the later increased prevalence of depression, sexual unhappiness and instability of relationships.” And perhaps the authors skirted around the Laumann study also because its findings confirm that heterosexuality is the norm, even for homosexuals, of whom less than 1% have never had heterosexual experiences, and the majority of whom “will eventually change and stop having [same-sex] experiences.” The brief goes on to ignore important findings from other studies that show that the “social milieu,” namely the family setting, early and continuing exposure to sexual experiences, and the educational, cultural, and even demographic reinforcement of homosexuality, can interfere with this fluidity and spontaneous disappearance of a “homosexual identity” in young persons. Had the brief mentioned the research showing the importance of “social milieu” in leading the unstable trait of sexual orientation toward heterosexuality over a lifetime, would the Court have made a decision that increases the likelihood that the social milieu of the coming generation will be less likely to produce that outcome?

While praising and carefully quoting the Laumann study for other purposes than its major findings as mentioned above, when the authors of the brief actually began to discuss the research

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243 Id. at 51.
244 Id. at 79.
245 Id. at 67.
246 Id.
247 Id. at 77-78.
248 Id. at 93.
249 Id.
on the development of a sexual identity, it used authorities other than Laumann.250 One
authority used in the APA’s brief has been documented to have “committed explicit, deliberate,
scientific fraud.” 251 Other researchers cited for the development of sexual identity came to the
opposite conclusion than the authors of the brief represented, but were quoted in such a way as to
support the authors’ proposition.252 For example, one researcher cited in the brief in support of
the proposition that “people have both male and female sex partners,” actually makes a more
important point ignored by the authors—namely, that it is sexual behavior, not identity, that puts
men engaged in sex with other men at such high risk for HIV infection.253 This point actually
supports “the State argument, in both Romer and Lawrence . . . to pass discriminatory anti-
sodomy legislation” because its focus is on the behavior, not on the homosexual identity.254 Had
the APA instead accurately presented the Laumann findings on sexual identity to the Court in the
Romer brief, the Court could not have justified its result based on a fluid category of individuals
defined solely by their current sexual behavior.

The brief also cites many articles from the Journal of Homosexuality, edited by John
DeCecco (who teaches a university course on the “Child’s Sexual Bill of Rights” which includes
the right to protected and aided sexual relationships with “a parent, sibling, or other responsible
adult or child.”)255 Another group of researchers is cited by the authors of the brief as authorities
on the development of sexual identity, but it is a group well known within the mental health
guilds to have a particular sexual agenda—Richard Green (in favor of removing pedophilia as a
mental disorder),256 John Money (“the most effective promoter of the concept of ‘transsexuality’

250 Id. at 57, referring to Alfred Kinsey.
251 Id.
252 Id. at 58, referring to Byne and Parsons.
253 Id. at 73, referring to Doll et al.
254 Id., emphasis in original.
255 Id. at 65.
256 Id. at 59.
and of transsexual surgery”), Wardell Pomeroy (who assisted in falsifying the Kinsey data and who promotes both bestiality and incest), and Paul Gebhard (who conducted research on “multiple orgasms in children and infants as young as six months old,” and protected pedophiles wanted for sex murders of children from the authorities so he could continue studying them).

C. The Impact of Judicial Reliance on APA Misrepresentations

The impact of the APA’s misrepresentations to the judiciary has likely resulted in very different outcomes in some important cases that are now shaping our society and affecting millions of individual lives. These cases are beginning to have a precedential effect in ways that were predicted by Dr. Charles Socarides, a vocal and minority opponent to the removal of homosexuality from the Diagnostic and Statistical Manual in 1973, and one of the foremost researchers and clinicians who studied and treated homosexuality. Thirty-three years ago he predicted that alterations in the concepts of healthy and abnormal sexual development would occur, that suicide may increase in persons struggling with their gender identities, and that there would be a decrease in knowledge of and research about homosexual disorders. He predicted that many would forfeit their opportunities to engage in their heritage: the male-female design; and that schools would likely be required to include homosexual sex education in their curriculum. He warned that homosexuals who wanted to be free from homosexuality “would be doomed by pronouncements of the Board of Trustees;” that many would not seek therapy, or

257 Id. at 60.
258 Id. at 61.
259 Id. at 62-63.
260 Id. at 63-64.
261 Id. at 15.
would delay seeking it for long periods of time, and that there would be a greater resistance to therapy; and that their “friends and families would despair.”

Although Socarides’ predictions are prophetic, they are only the tip of the iceberg. The results of the APA’s egregious scientific fraud will trickle down in harmful ways that cannot yet be predicted. Unless the APA as an organization, its governing boards and/or its responsible members, are held accountable for their malfeasance, not only will the APA continue to be discredited as a scientific organization and become “just another opinionated voice shouting and shouting,” but great injustices will be done to the individuals, families, and communities who would be benefited from the truth. The judiciary cannot let those injustices be done.

IV. CONCLUSION: A HYPOTHETICAL CASE OF SCIENTIFIC FRAUD

How long will it be until some individual, suffering from the mental and physical disorders long associated with homosexuality and dying from the ravaging effects of AIDS, files a lawsuit for actual and punitive damages resulting from the APA’s scientific fraud? Imagine him on the witness stand: He will reveal to a jury that he was distressed by his first awareness that he had homosexual thoughts and feelings. He will explain that his personal religious and moral values were diametrically opposed to homosexuality. His desires notwithstanding, his identity within his religious community and as a husband, father, son, and brother were the most important things in his life. He agonized over every risky foray into homosexual encounters he felt compelled to pursue, wanting nothing more than escape and freedom from such unwanted

262 Id.
263 Id.
feelings. He tried to stop himself, but didn’t understand why he felt this way, or what to do about it.

Yet all around him, he hears and sees that being gay is “normal.” Look at all the television programs, the magazine articles and pictures, the newspapers, the textbooks in his son’s first-grade class. These homosexuals are so young, healthy, and good-looking. They look so happy! Feeling depressed and despairing, he sought help for his condition from the web site of the American Psychological Association. And what did he learn? It’s too bad that your desires and values are opposed to homosexuality, because there’s nothing you can do about it. You can’t change, because change isn’t possible. Besides, there’s nothing wrong with homosexuality. It’s not a disorder—professional and authentic scientific research proves it! It is just as healthy as being straight! Your depression, despair, and suicidal feelings are the result of internalized homophobia and social prejudice! Go to an appropriately trained psychologist using our ethical guidelines for treating gay, lesbian, and bisexual individuals who will help you adjust to the “coming out” process. If your family members, religious community, and friends are not (gasp!) homophobic, they will embrace this with you. And by the way, you can still enjoy marriage — we’re working hard to make sure legislators and judges understand these things too! You can probably convince a judge to give you custody of your children, because research shows they are just as well off being raised by a homosexual parent, and hey, if you and your partner marry, it might even be better for your children than being raised by your ex-wife, now a single mother. You can have it all!

Not quite convinced, he will tell the jury, he sought out a psychologist recommended by his health care provider from their approved provider panel network, and secretly told her he wanted to change. She carefully explored with him all the potential sources of prejudice and
homophobia in his life that made it hard for him to value his homosexuality. She was careful not to encourage him to seek change for his unwanted feelings, because that might harm him. She did, however, explain that everything he had heard about conversion therapy was undocumented and presented by organizations that condemned people with the thoughts and feelings that he has.

His anxiety grew day by day, and the only thing that gave him any relief was to go find some man to have sex with—anyone would do. But the relief was only temporary, and was soon replaced with guilt. He began seeking out sexual encounters with men more often, even daily, to relieve his anxiety. To cope with the resulting guilt at betraying his family and his values, he began abusing alcohol. He decided that it would be better to divorce and try to find a stable partnership with a man. Maybe that would make him happy. So he left his wife and children, but not before giving his wife the HIV virus he had unknowingly picked up, and leaving his religious community because he was sure no one there could understand. After leaving, though, he couldn’t find the right partner. He began using methamphetamine during his sexual encounters, because it heightened his pleasure, and seemed to give him relief a little longer before the guilt and despair returned. All he could think about was where and with whom to have his next sexual encounter. He began noticing some intermittent rectal bleeding, and some strange rashes, but shrugged it off.

Finally, he found “Mr. Right.” They married, because their state judges had just relied on some of the APA’s wonderful research that convinced them that homosexuality was an identity, not subject to change, and that homosexual couples were the same as heterosexual couples in every way that truly matters. They had more money than his struggling ex-wife, who couldn’t afford a lawyer because she was tired, sick, and working at a minimum wage job to support
herself and the children. They won custody of the children when the judge looked up the Supreme Court precedents and the APA’s resolutions on child-rearing by homosexual couples, and decided that in the name of tolerance and diversity, and because two parents of any gender must be better than one, that it would be in the children’s best interest to live with their father.

But not long after, things began to go sour. Neither he nor “Mr. Right” could remain faithful to each other. They began arguing and abusing each other. One of their gay friends over for a pool party was caught touching his 11-year-old son’s genitals. He finally discovered he had been carrying the HIV virus contracted from one of his anonymous sexual partners. “Mr. Right” divorced him, and was awarded visitation with the children, who now by court order spent one weekend a month with him, one with his ex-wife, one with his ex-husband, and one with their grandparents, his estranged parents. His teen-aged daughter declared herself to be a “lesbian” and began engaging in promiscuous behavior.

His ex-wife died of AIDS, and then his HIV progressed quickly into full-blown AIDS. He discovered he had rectal cancer and fecal incontinence because of the rectal fissures he had developed. He lost weight, developed sores and lesions, became severely weak and tired, and couldn’t take care of his children. The state put them in foster care, and he was alone.

Then one day, he went to the library to do some research on AIDS. One thing led to another, and he came across a paper describing how the American Psychiatric Association removed homosexuality from the 1973 Diagnostic and Statistical Manual. This made him suspicious about the information he had received from the APA’s web site and from his former therapist. He did a little more digging, and discovered that the APA had no more basis to claim that homosexuality was not a disorder than the American Psychiatric Association had. He discovered that the APA had failed to conduct substantiating research, that they discouraged their
members from conducting such research, and refused to review or publish any research that did not affirm the homosexual lifestyle. Angered, he dug into research available since the 1940’s, and discovered that there were many studies that portrayed the association between homosexuality and mental illness. He learned that the health risks of homosexuality were well known to the APA. He read the studies cited in the APA’s resolutions, and discovered how poorly done they were, who wrote them, and their biased reporting of their findings. He was finally admitted to a hospice, and all around him were men just like him, sick and waiting to die, because they had all believed the lies. None of them were good-looking or happy anymore.

He hired a lawyer and told his story. And now, dear jury, he will say, you have seen the APA’s research, such as it was. You have seen their credentials, or lack of them. You have listened to them try to explain why they ignored entire studies, or the pertinent parts of others, when they presented their “science” to the public and to the courts. You have heard the testimony of former presidents of the APA, and many of its members, describing how they were ostracized and silenced, dismayed over the APA’s abandonment of scientific principles, and removed from preferred provider networks because they were not willing to deny their patients the freedom to maximize their heterosexual potential. You have heard the testimony of reparative therapists documenting change, and ex-gays who found hope and healing. I could have had that too, had I only known about it. I thought the APA was made up of professionals, he will say, scientists and clinicians who would help me become healthier. I didn’t know they were despising and rejecting my own values until I learned that I could have had a choice, had they not taken it from me in order to compel me to live their values. I counted on them, and they let me down, and now I am dying when I could have been saved.
While the jury deliberates, he wonders what will happen. Will the APA be required to pay for the costs of his exorbitant medical expenses for AIDS and cancer treatment? What about his physical pain and suffering? Are they responsible for the death of his wife? For the suffering of his children? He can't tell the jury that the APA offered him a fat settlement to keep him quiet until he died. But more important to him than the money is for the fraud to stop, so that others will know the truth, and seek help if they want it. He tries not to blame the judges, who, after all, were probably relying on the same false representations the APA gave him. If only it were not too late for him.

This hypothetical obviously does not represent the types of experiences all individuals have who rely on the APA's misrepresentations, but very easily represents the experiences many have had and will continue to have unless the APA is held responsible for its scientific fraud. Other professional organizations relying on the same flawed core research also have an obligation to the public and the judiciary. If the APA wants to become little more than an advocacy group, it should present itself as such. If it wants to be taken seriously by the public, and increasingly, by the judiciary, as a scientific organization which can be relied upon for accuracy and scientific integrity, amends must be made. Responsibility must be taken. The scientific process must be followed, with proper methodologies and reporting, and claims must be reliable and verifiable. The political and social agendas of some members must not stifle the honest research and conclusions of others. Vigorous, open, and respectful debate must be encouraged, and true tolerance, diversity, and respect for patient self-determination must be permitted. Without these amends, judicial reliance on amicus briefs and other presentations by the APA regarding homosexual issues is severely misplaced.