

VIRGINIA:

IN THE CIRCUIT COURT OF HENRICO COUNTY

JOHN N. RAYMOND, ET AL.,

Plaintiffs,

v.

VIRGINIA DEPARTMENT OF HEALTH
PROFESSIONS, ET AL.,

Defendants.

Case No. CL24006296-00

CONSENT DECREE

This matter is before the Court on consideration of the parties' joint motion for entry of this Consent Decree, disposing of this civil action which Plaintiffs initiated through their Verified Complaint. Seeking declaratory and injunctive relief, \$50,000 in compensatory damages, \$1,000 in nominal damages, and attorneys' fees and costs, the Verified Complaint asserts that Code § 54.1-2409.5 and 18 Administrative Code § 115-20-130(B)(14) (the "Challenged Provisions") violate Article I, §§ 11, 12, and 16 of the Virginia Constitution as well as the Virginia Religious Freedom Restoration Act, Code § 57-2.02. In support hereof, the parties state the following:

1. The Court has jurisdiction over the Plaintiffs and Defendants and over the subject matter of this action.
2. Plaintiff John N. Raymond is licensed by the Virginia Board of Counseling as a professional counselor, has worked as a licensed professional counselor since 2009, and maintains a counseling practice in Front Royal, Virginia.
3. Plaintiff Janet P. Raymond is licensed by the Virginia Board of Counseling as a professional counselor, has worked as a licensed professional counselor since 1992, and maintains a counseling practice in Front Royal, Virginia.

4. Defendant Virginia Department of Health Professions is an agency within the executive branch of government authorized to provide investigative, inspection, and administrative services for Virginia's health profession regulatory boards, including the Virginia Board of Counseling.
5. Defendant Arne Owens is the Director of the Virginia Department of Health Professions and has powers and duties including with respect to the supervision and management of the Department, the performance of administrative services or functions as may assist the operation of Virginia's health profession regulatory boards, the receipt and monitoring of complaints made against regulated health care professionals, and the provision of investigative and other services as needed by such boards to enforce their respective statutes and regulations.
6. Defendant Virginia Board of Counseling is a licensing and regulatory board within the Virginia Department of Health Professions and is authorized to license and regulate the practice of certain health professions, including professional counseling.
7. Defendants have enforcement authority respecting Code § 54.1-2409.5 and 18 Administrative Code § 115-20-130(B)(14).
8. Under Code § 54.1-2409.5(B), which was enacted in 2020, licensed professional counselors are prohibited from "engag[ing] in conversion therapy with a person under 18 years of age," with any such "conversion therapy efforts" "constitut[ing] unprofessional conduct" and "grounds for disciplinary action by the appropriate health regulatory board within the Department of Health Professions."
9. Prohibited "conversion therapy" is defined to "mean[] any practice or treatment that seeks to change an individual's sexual orientation or gender identity, including efforts to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same gender. 'Conversion therapy' does not include counseling that provides acceptance, support, and understanding of a person or facilitates a person's coping, social support, and identity exploration and development, including sexual-orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices, as long as such counseling does not seek to change an individual's sexual orientation or gender identity." Code § 54.1-2409.5(A).
10. In 2021, the Virginia Board of Counseling added the prohibition against "conversion therapy with any person younger than 18 years of age" to the standards of practice for licensed professional counselors. 18 Admin. Code § 115-20-130(B)(14).

11. Plaintiffs are Christians and integrate their religious faith in their counseling of clients through talk therapy, which consists of voluntary conversations, prayer, and sharing of written materials such as Scripture, between an individual counselor and an individual client.
12. Before Code § 54.1-2409.5 took effect, Plaintiffs provided talk therapy to adult and minor clients on various issues.
13. Before Code § 54.1-2409.5 took effect, Plaintiffs' counseling included talk therapy with minor clients seeking, or otherwise with an objective, to align the client's gender identity with behaviors or gender expressions of such person's biological sex. It also included talk therapy with minor clients seeking, or otherwise with an objective, to align a client's sexual orientation with that of sexual or romantic attractions or feelings toward persons of the opposite sex. Because of Code § 54.1-2409.5's enactment, Plaintiffs ceased talk therapy on these matters out of concern that it would be prohibited "conversion therapy."
14. Because of Code § 54.1-2409.5, Plaintiffs ceased counseling minor clients almost entirely. In most cases, Plaintiffs would not be able to determine, in advance, whether talk therapy with a minor client would raise issues implicating Code § 54.1-2409.5's prohibition on "conversion therapy."
15. Plaintiffs' religious beliefs include: that a person's behaviors or gender expressions should be consistent with that person's biological sex; that a person can reduce and overcome behaviors or gender expressions inconsistent with such person's biological sex; that a person's sexual or romantic attractions or feelings should not be directed toward persons of the same sex; and that a person can reduce and overcome sexual or romantic attractions or feelings directed toward persons of the same sex.
16. The Supreme Court of Virginia has recently "observ[ed] that the 'constitutional guarantees of religious freedom have no deeper roots than in Virginia, where they originated, and nowhere have they been more scrupulously observed.' 'No State has more jealously guarded and preserved the questions of religious belief and religious worship as questions between each individual man and his Maker than Virginia.'" *Vlaming v. W. Point Sch. Bd.*, 302 Va. 504, 528 (2023) (quoting *Reid v. Gholson*, 229 Va. 179, 187 (1985), and *Jones v. Commonwealth*, 185 Va. 335, 343 (1946)).
17. Article I, § 11 of the Virginia Constitution provides "that the right to be free from any governmental discrimination upon the basis of religious conviction . . . shall not be abridged."

18. Article I, § 16 of the Virginia Constitution provides “[t]hat religion or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and, therefore, all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice Christian forbearance, love, and charity towards each other. No man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but all men shall be free to profess and by argument to maintain their opinions in matters of religion, and the same shall in nowise diminish, enlarge, or affect their civil capacities. And the General Assembly shall not prescribe any religious test whatever, or confer any peculiar privileges or advantages on any sect or denomination, or pass any law requiring or authorizing any religious society, or the people of any district within this Commonwealth, to levy on themselves or others, any tax for the erection or repair of any house of public worship, or for the support of any church or ministry; but it shall be left free to every person to select his religious instructor, and to make for his support such private contract as he shall please.”
19. The Virginia Religious Freedom Restoration Act provides that “[n]o government entity shall substantially burden a person’s free exercise of religion even if the burden results from a rule of general applicability unless it demonstrates that application of the burden to the person is (i) essential to further a compelling governmental interest and (ii) the least restrictive means of furthering that compelling governmental interest.” The Act defines “substantially burden” as “to inhibit or curtail religiously motivated practice.” Code § 57-2.02(A), (B), (D).
20. “Speech is not unprotected merely because it is uttered by ‘professionals[.]’” *Nat’l Inst. of Family & Life Advocates v. Becerra*, 585 U.S. 755, 767 (2018), and “[v]iewpoint discrimination’ is an ‘egregious form of content discrimination.’ ‘The government must abstain from regulating speech when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction[.]’” *Ibanez v. Albemarle Cnty. Sch. Bd.*, 80 Va. App. 169, 208 (2024) (quoting *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829 (1995)).
21. Article I, § 12 of the Virginia Constitution provides “[t]hat the freedoms of speech and of the press are among the great bulwarks of liberty, and can never be restrained except by despotic governments; that any citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; that the General Assembly shall not pass any law abridging the freedom of speech or of the press, nor the right

of the people peaceably to assemble, and to petition the government for the redress of grievances.”

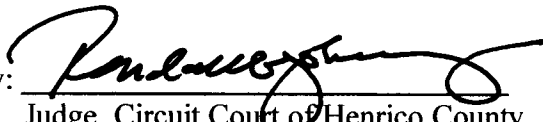
22. After consideration of the verified allegations and the relevant legal and constitutional authorities, the parties consider that enforcing the Challenged Provisions with respect to talk therapy between a licensed professional and a client that is motivated or informed by religious beliefs and desired by the client would violate Article I, §§ 11 and 16 of the Virginia Constitution, as well as the Virginia Religious Freedom Restoration Act.
23. After consideration of the verified allegations and the relevant legal and constitutional authorities, the parties consider that enforcing the Challenged Provisions with respect to talk therapy between a licensed professional and a client that is desired by the client would violate Article I, § 12 of the Virginia Constitution.
24. Considering the sworn facts stated in the Verified Complaint, relevant provisions of the Virginia Constitution and Code, and other appropriate matters, the parties agree that the Court’s entry of this Consent Decree, ordering such terms as are stated herein, is fair, adequate, reasonable, and in the public interest.

Finding it appropriate to do so in consideration of the foregoing, the parties’ agreement following good faith negotiations, and other appropriate matters, it is hereby **ORDERED** that:

1. Defendants, any of their officers, employees, or agents, and any successors of the foregoing are enjoined from enforcing Code § 54.1-2409.5 or 18 Administrative Code § 115-20-130(B)(14) against Plaintiffs and similarly-situated counselors in their provision of talk therapy, as described herein;
2. Nothing in this Consent Decree shall be construed as enjoining the enforcement of Code § 54.1-2409.5 or 18 Administrative Code § 115-20-130(B)(14) as to any practice or treatment other than talk therapy;
3. The consenting parties shall be responsible for paying their own attorneys’ fees, expenses, and costs associated with the claims that the Plaintiffs’ Verified Complaint raised against the Defendants; and
4. This case is hereby dismissed, and the Clerk of Court is directed to strike this case from the Court’s active docket.

The Clerk of Court is directed to send a copy of this Consent Decree to the parties' counsel of record.

ENTERED: 6 / 4 / 25

By: 
Judge, Circuit Court of Henrico County

TOGETHER, WE ASK FOR THIS:

**JOHN N. RAYMOND and
JANET P. RAYMOND**

**VIRGINIA DEPARTMENT OF HEALTH
PROFESSIONS, ARNE OWENS, in his
Official capacity as Director of the Virginia
Department of Health Professions, and
VIRGINIA BOARD OF COUNSELING**

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