

STATE OF MINNESOTA

Executive Department



Governor Tim Walz

Executive Order 21-25

Protecting Minnesotans from “Conversion Therapy”

I, Tim Walz, Governor of the State of Minnesota, by the authority vested in me by the Constitution and applicable statutes, issue the following Executive Order:

The Minnesota Constitution explains that “Government is instituted for the security, benefit and protection of the people.” Our State recognizes the importance of providing appropriate and effective medically necessary and science-based services to safely meet Minnesotans’ medical needs. Our State embodies the core values of One Minnesota when all Minnesotans are accepted, cared for, and protected from unsafe and discredited medical practices.

So-called “conversion therapy,” sometimes known as “reparative therapy,” is a range of dangerous and discredited practices that falsely claim to change a person’s sexual orientation, gender identity, or gender expression. The scientific, medical, and education communities overwhelmingly reject conversion therapy because it lacks scientific validation, poses dangerous health risks to the individuals and communities involved, and contributes to health and social inequities.

Numerous health organizations—including the American Psychiatric Association, the American Medical Association, the American Psychological Association, the American Academy of Child and Adolescent Psychiatry, the American Academy of Pediatrics, the American Association for Marriage and Family Therapy, the American Academy of Physician Assistants, the American Association of Sexuality Educators, Counselors, and Therapists, the American College of Physicians, the American Counseling Association, the American Osteopathic Association, the American Psychoanalytic Association, the Pan American Health Organization, the Minnesota Medical Association, and the Minnesota Psychological Association—have repeatedly voiced their opposition to these practices.

A multitude of professional education organizations—including the National Education Association, the American Federation of Teachers, the American Association of School Administrators, the American School Counselor Association, the American School Health Association, the National Association of School Psychologists, and the National Association of Secondary School Principals—have also denounced conversion therapy for the harm it causes to children’s mental health.

On February 13, 2019, the Minnesota House Health and Human Services Policy Committee held a hearing where Minnesotans testified to the trauma caused by their own childhood experiences with conversion therapy. In addition, the cities of Bloomington, Duluth, Golden Valley, Minneapolis, St. Louis Park, St. Paul, Red Wing, Robbinsdale, Rochester, West St. Paul, and Winona have held their own hearings and received similar testimony before taking action against conversion therapy in their jurisdictions. This testimony shows the harm inflicted by conversion therapy practices in Minnesota.

Conversion therapy is especially concerning when used on minors and vulnerable adults. Our State strives to protect all Minnesotans, especially those whose ability to self-determine medical treatment is curtailed by existing law.

Our State recognizes that discrimination based on sex, sexual orientation, gender identity, and other protected class statuses threatens the rights and privileges of all Minnesotans and menaces the institutions and foundations of democracy. The opportunity to be free from discrimination is each Minnesotan's civil right and is guaranteed by the Minnesota Human Rights Act ("MHRA"). Under the MHRA, discrimination based on sex, sexual orientation, gender identity, and other protected class statuses is prohibited.

On November 24, 2015, the Minnesota Department of Health ("MDH") and the Minnesota Department of Commerce ("Commerce") issued Administrative Bulletin 2015-5 which "advise[d] entities delivering or issuing individual and group health insurance policies in Minnesota that discrimination against an individual because of the individual's gender identity or expression is prohibited. This prohibition extends to the availability of health insurance coverage and the provision of health insurance benefits."

Today the State of Minnesota joins with the cities of Bloomington, Duluth, Golden Valley, Minneapolis, St. Louis Park, St. Paul, Red Wing, Robbinsdale, Rochester, West St. Paul, Winona, 23 other states, the District of Columbia, Puerto Rico, and a growing number of municipalities across the country that have taken action against conversion therapy. We stand with the scientific, medical, and education communities, and we affirm the broad public and private consensus rejecting conversion therapy.

For these reasons, I order that:

1. All state agencies must pursue opportunities and coordinate with each other to protect Minnesotans, particularly minors and vulnerable adults, from conversion therapy to the fullest extent of their authority.
2. **Definitions.** For the purposes of this Executive Order, the terms below are defined as follows:
 - a. "Conversion therapy" refers to any practice by a mental health practitioner or mental health professional that seeks to change a person'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 people regardless of gender. Conversion therapy does not include counseling that provides assistance to a person undergoing gender transition. It also 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 the counseling does not seek to change the person's sexual orientation or gender identity.

- b. "Mental health practitioner" or "mental health professional" includes, but is not limited to, a person as defined in Minnesota Statutes 2020, section 245.462 subdivisions 17 and 18.
 - c. "Vulnerable adult" means a person as defined in Minnesota Statutes 2020, section 626.5572, subdivision 21.
 - d. "Minor" means any person under the age of 18.
 - e. "State agencies" means the departments and agencies listed in Minnesota Statutes 2020, section 15.06, subdivision 1, and the Office of Higher Education and the Department of Military Affairs.
- 3. By January 1, 2022, MDH and Commerce will update and revise the joint MDH and Commerce Administrative Bulletin 2015-5 consistent with this Executive Order to reflect the health professional consensus that conversion therapy is a harmful practice that lacks evidence to support its use as a therapeutic intervention.
 - 4. By March 1, 2022, MDH, Commerce, the Minnesota Department of Human Services ("DHS"), and the Minnesota Department of Human Rights ("MDHR") will issue a joint administrative bulletin, based on their direct statutory authority, to health plan companies regarding the prevention of conversion therapy for minors and vulnerable adults.
 - 5. MDH will use its powers, authorities, and duties to the fullest extent possible to take all appropriate actions to protect Minnesotans from conversion therapy, including:
 - a. By April 1, 2022, preparing and presenting a report to the Governor, Lieutenant Governor, and Legislature summarizing the literature on the scientific evidence about the safety and effectiveness of conversion therapy and its public health effects, and approaches that other jurisdictions have taken to enforcing prevention of conversion therapy for minors and vulnerable adults.
 - b. Pursuant to its authority under Minnesota Statutes 2020, Chapter 62D, and by May 1, 2022, requesting attestations from health maintenance organizations, county-based purchasing organizations, and any other health carrier or health plan under its jurisdiction, that they are not covering conversion therapy services.

- c. Investigating and taking administrative action to prohibit any unfair or deceptive act or practice, by a health maintenance organization, related to conversion therapy, in accordance with Minnesota Statutes 2020, sections 62D.12, subdivision 1 and 72A.19.
 - d. To the extent permissible under existing law, accepting health maintenance organizations' determinations that conversion therapy is experimental, investigative, and unproven pursuant to Minnesota Rules 2020, part 4685.0100, subpart 6a and therefore not a comprehensive health maintenance service and a permissible exclusion under Minnesota Rules 2020, part 4685.0700, subpart 4.
 - e. To the extent necessary and permissible under existing law and pursuant to its authority under Minnesota Statutes 2020, Chapter 62D, engaging in rulemaking under Minnesota Statutes 2020, Chapter 14, to restrict health maintenance organization coverage of conversion therapy.
 - f. To the extent permissible under existing law and pursuant to its authority under Minnesota Statutes 2020, section 62D.04, refusing to approve any health maintenance organization contract or evidence of coverage that discriminates against individuals, including on the basis of sex, sexual orientation, and gender identity, consistent with the updated Administrative Bulletin 2015-5, referenced in paragraph 3 of this Executive Order.
6. Commerce will use its powers, authorities, and duties to the fullest extent possible to take all appropriate actions to protect Minnesotans from conversion therapy, including:
- a. Pursuant to its authority under Minnesota Statutes 2020, section 60A.03, subdivision 2, and section 62A.02, and by May 1, 2022, requesting attestation from health plan companies that they are not covering conversion therapy services.
 - b. Investigating and taking administrative action to prohibit any unfair or deceptive act or practice, in the business of insurance, related to conversion therapy, in accordance with Minnesota Statutes 2020, section 72A.19.
 - c. To the extent necessary and permissible under existing law and pursuant to its authority under Minnesota Statutes 2020, Chapter 72A, engaging in rulemaking under Minnesota Statutes 2020, Chapter 14, to restrict health plan coverage of conversion therapy.
 - d. To the extent necessary and permissible under existing law, exercising its statutory authority to engage in rulemaking under Minnesota Statutes 2020, Chapter 14, to clarify that conversion therapy is not "medically necessary care" under Minnesota Statutes 2020, section 62Q.53.

- e. To the extent permissible under existing law and pursuant to its authority under Minnesota Statutes 2020, sections 62A.02 and 72A.21, refusing to approve any health plan that discriminates against individuals, including on the basis of sex, sexual orientation, and gender identity, in accordance with Minnesota Statutes 2020, sections 62A.02 and 72A.21, and consistent with the updated Administrative Bulletin 2015-5, as referenced in paragraph 3 of this Executive Order.
7. DHS will use its powers, authorities, and duties to the fullest extent possible to take all appropriate actions to protect Minnesotans from conversion therapy, including:
 - a. By March 1, 2022, updating the Minnesota Health Care Programs (“MHCP”) Provider Manual to clarify that conversion therapy is not a medically necessary health service and is not eligible for reimbursement by MHCP under Minnesota Rules 2020, part 9505.0210.
 - b. Recouping improper payments made for conversion therapy services provided after March 1, 2022, identified through investigation and post-payment review and pursuant to its authority under Minnesota Statutes 2020, section 256B.064 and Minnesota Rules 2020, part 9505.2215.
8. MDHR will use its powers, authorities, and duties to the fullest extent possible to take all appropriate actions to protect Minnesotans from conversion therapy, including investigating charges and pursuing civil relief when the Commissioner has reason to believe that a mental health practitioner or mental health professional is engaging in unfair discriminatory practices, to the extent permissible under existing law and in accordance with Minnesota Statutes 2020, Chapter 363A.
9. Nothing in this Executive Order shall be construed to permit health plans, health maintenance organizations, mental health practitioners or mental health professionals to limit or restrict access to health care insurance or services in violation of the non-discrimination requirements of Minnesota Statutes 2020, Chapter 363A.
10. Responsible state boards and commissions, including but not limited to the Board of Behavioral Health and Therapy, the Board of Marriage and Family Therapy, the Board of Medical Practice, the Board of Psychology, the Board of Nursing, the Board of Social Work, the State Advisory Council on Mental Health, and the Subcommittee on Children’s Mental Health, are strongly encouraged to evaluate conversion therapy practices in light of the overwhelming scientific consensus rejecting these practices and, to the extent necessary and permissible under existing law, develop rules prohibiting conversion therapy use by licensees.

This Executive Order is effective fifteen days after publication in the State Register and filing with the Secretary of State. It will remain in effect until rescinded by proper authority or until it expires in accordance with Minnesota Statutes 2020, section 4.035, subdivision 3.

A determination that any provision of this Executive Order is invalid will not affect the enforceability of any other provision of this Executive Order. Rather, the invalid provision will be modified to the extent necessary so that it is enforceable.

Signed on July 15, 2021.



Tim Walz
Governor

Filed According to Law:



Steve Simon
Secretary of State