IFTC Written Intervention at OSCE/ODIHR 2013 Human Dimension Implementation Meeting, Warsaw, Poland

To: The Organization for Security and Co-operation in Europe (OSCE) Office of Democratic Institutions and Human Rights (OHIHR) Human Dimension Implementation Meeting (HDIM)

From: International Federation for Therapeutic Choice (IFTC)

Date: Tuesday, 24 September 2013: Working Session 3

Re: Tolerance and Nondiscrimination II

Legally Sanctioned Intolerance and Discrimination Threatens the Freedom of Medical and Mental health Professionals and Researchers to Provide—and Potential Patients or Clients to Receive—Freely Sought Education, Guidance, Therapy and Other Professional Care.

This intervention is being given on behalf of the International Federation for Therapeutic Choice (IFTC). The IFTC supports the rights of sexual minorities who have unwanted attractions, orientation, behavioral tendencies, behavior, and/or identity to

receive competent professional guidance and therapeutic care. The IFTC also supports the rights of medical and mental health professionals to offer that care (see www.therapeutic-choice.org).

Central Recommendation to Participating States of the OSCE:

To draft legislation to safeguard the freedom of:

1. Minor and adult persons to receive freely sought professional care in order to eliminate, diminish, or manage unwanted sexual minority feelings, behavior, and/or identity.

2. Medical and mental health practitioners, educators, and researchers to offer professional education, guidance, and therapy to minors (with the support of their parents) and adults who freely choose such care in order to eliminate, diminish, and/or manage any unwanted sexual minority feelings, behavior, and/or identity.

Some sexual minorities find their attractions, orientation, behavioral tendencies, behavior, and/or identity unwanted. Some of these people *freely choose* or have *freely chosen* to seek professional guidance and therapeutic assistance to avoid basing their relational and sexual lives according to their sexual minority attractions, behaviors, orientations, and/or identifications. More than one hundred years of clinical reports and other research literature document that some persons *have* been successful in achieving this goal *without* undo harm. Please refer to the first volume and the summary of the *Journal of Human Sexuality*, which reviews the clinical and scientific literature on this issue. (Both may be downloaded at http://narth.com/ 2013/02/journal-of-human-sexuality-volume-1-complete-text/)

Medical and mental health professionals who educate and offer guidance and therapeutic services to people with unwanted sexual minority concerns are experiencing an increasing amount of legally sanctioned intolerance and discrimination. Laws have recently been passed in the states of California and New Jersey (in the United States) that revoke the professional license of medical and mental health professionals who attempt to treat minors with unwanted sexual orientation, feelings, behaviors, and identities.

Such legislation and the ideological bias motivating it claim in effect that minors who receive such professional care—called "Sexual Orientation Change Efforts" (SOCE)—will be invariably and severely "harmed" in the process. As a result of that rationale, opponents claim, SOCE is considered intrinsically unethical and no medical or mental health professional may practice it ethically.

Such claims of harm are based on the ideologically biased and irresponsible use of scientific reports and professional opinions. If allowed by the courts to be enforced, such intolerance and discrimination not only will hinder professional practice, but will also hinder the freedom of minors (with the support of their parents) to receive health care, guidance, and education from these professionals—health care that the minors themselves and their parents have determined is necessary for the minors' health and well-being.

I offer some points for further clarification:

I. **Concerning California SB 1172:** On September 29, 2012, California governor Jerry Brown signed a law that had passed both houses of the California State Legislature. In its original form, the law proposed to prevent or significantly limit "mental health provider(s)" from engaging "in sexual orientation change efforts (SOCE)" with adults as well as with children (defined as persons under 18 years of age). But the bill that was signed into law limited the provision of services only to "a patient under 18 years of age." For the purpose of this law, "sexual orientation change efforts" are defined as any "efforts to change behaviors or

gender expressions, or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same sex."

- SB 1172 depended heavily on the 2009 *Report of the American Psychological Association (APA) Task Force on Appropriate Therapeutic Responses to Sexual Orientation* (http://www.apa.org/pi/lgbt/ resources/sexual-orientation. aspx). As its primary rationale, the law cites the 2009 *Report of The American Psychological Association* in which a task force on Appropriate Therapeutic Responses to Sexual Orientation concluded "that sexual orientation change efforts can pose critical health risks to lesbian, gay, and bisexual people." In fact, the credibility for the harm is nonexistent. There is no objective evidence that any harm even occurred.

- In reality, the APA task force report actually concluded: "There are no scientifically rigorous studies of recent SOCE that would enable us to make a definitive statement about whether recent SOCE is safe or harmful and for whom" (*Report of the American Psychological Association Task Force on Appropriate Therapeutic Responses to Sexual Orientation,* www.apa.org/pi/lgbc/publications/, 83; cf. *The (Complete) Lack of a Scientific Basis for Banning Sexual-Orientation Change Efforts with Minors,* http://narth.com/2012/08/the-complete-lack-of-a-scientific-basis-for-banning/; *Fact-Checking California Senate Bill 1 72* and *California Senate Bill 1 72: A Scientific and Legislative Travesty,* both at http://narth. com/2012/05/california-senate-bill-1172-a-scientific-and-legislative-travesty/).

The 2009 APA task force report cited the Shidlo and Schroeder (2002) and Schroeder and Shidlo (2003) research in documenting the harm that may result from SOCE.

This research is methodologically inadequate as a basis for banning SOCE or any approach to medical or mental health care. For example, in the Shidlo and Schroeder research, there is *no* evidence *other than* the interviewees' claims

- that those who claimed to be harmed after participating in SOCE *actually participated* in any SOCE.

- that they *actually experienced* the harms they claimed to have experienced.

- That if they did undergo SOCE and experienced the harms they claimed, that the harms occurred *as a result of,* or even *during or after,* the sessions of SOCE.

- that all or even some of them did not experience any of the problems they report either *before* they began SOCE or *during or after* the SOCE *for reasons non-related* to the SOCE.

- *from whom* they received SOCE (for example, a therapist, pastor, or some other person). In this study, the professional status of the reported SOCE providers was not identified.

Schroeder, M., & Shidlo, A. (2002). Ethical issues in sexual orientation conversion therapies. In A. Shidlo, M. Schroeder, & J. Drescher (Eds.), *Sexual conversion therapy: Ethical, clinical and research perspectives* (pp. 131–166). New York: Haworth.

Shidlo, A., & Schroeder, M. (2002). Changing sexual orientation: A consumer's report. *Professional Psychology: Research and Practice,* 33, 249–259. doi: 10.1037//0735-7028.33.3.249.

- The APA and authors of CA SB 1172 ignored the clear caveat of the Shidlo and Schroeder authors about the limited generalizability of their study: *"The data presented in this study do not provide information on the incidence and prevalence of failure, success, harm, help, or ethical violations in conversion therapy"* (Shidlo & Schroeder, 2002, 250; emphasis in the original). "Conversion therapy" is one of several generic names given to SOCE.

Christopher H. Rosik. (2012). Fact-Checking California Senate Bill 1172—Serious Inaccuracies and distortions abound: Are politicians willing to listen? Retrieved from http://narth.com/2012/05/ california-senate-bill-1172-a-scientific-and-legislative-travesty/

Christopher H. Rosik. (2012). California Senate Bill 1172: A scientific and legislative travesty—A look at the bill's misuse of science. Retrieved from http://narth.com/2012/05/ california-senate-bill-1172-a-scientific-and-legislative-travesty/

Christopher H. Rosik. (2012). The (complete) lack of a scientific basis for banning sexual-orientation change efforts with minors: Claims by Sen. Lieu and SB 1172 of widespread harms to minors from SOCE represent rhetoric, not research. Retrieved from http://narth.com/2012/08/ the-complete-lack-of-a-scientific-basis-for-banning/

II. Concerning New Jersey AB 3371: On August 19, 2013, New Jersey governor Chris Christie signed into law AB 3371, which had previously been passed by both houses of the New Jersey State Legislature. Apparently learning from the experience with California's SB 1172, New Jersey AB 3371 was initially authored and subsequently passed only to prevent minors from receiving SOCE. Like the

California bill, this New Jersey bill cited as the best support for its claims for the harmfulness of SOCE a study that does not prove or show the harmfulness of SOCE.

- New Jersey AB 3371 cites a study by Ryan, Huebner, Diaz, and Sanchez (2009) in the respected journal *Pediatrics* as its best support for claims that SOCE in minors results in serious harm. It is evident that this study also contains many of the methodological limitations cited by the APA 2009 task force report that invalidates the scientific and professional literature supporting the efficacy of SOCE. In addition, like the Shidlo and Schroeder studies cited by the APA 2009 task force report and California's SB 1172, the Ryan et al. (2009) study itself has significant methodological difficulties. These difficulties include:

    - Participants were not blind to the study purposes.
    - Apparent biases were made in the participant recruitment process.
    - Reliance on self-report measures had participants recalling experiences from the distant past.

Ryan, C., Huebner, D., Diaz, R. M., & Sanchez, J. (2009). Family rejection as a predictor of negative health outcomes in white and Latino lesbian, gay, and bisexual young adults. *Pediatrics,* 123, 346–352. doi: 10.1542/peds.2007-3524.

- Generalization difficulties are also created by the sample composition of Ryan et al. (2009). The sample is limited to young-adult non-Latino and Latino LGB persons. The APA task force (2009) noted that research on SOCE has "limited applicability to non-Whites, youth, or women" (p. 33), and that "no investigations are of children and adolescents exclusively, although adolescents are included in a very few samples" (p. 33). This means that it is inappropriate

to even generalize their findings in a manner that would cast aspersions on all SOCE experiences of minors, which again is precisely what AB 3371 is determined to do. In addition, Ryan et al. (2009) acknowledge that "given the cross-sectional nature of this study, we caution against making cause-effect interpretations from these findings" (p. 351).

III. Professional efforts to sanction SOCE illustrate unethical scientific and professional negligence.

- Specifically, the APA has let SB 1172 declare uncorrected that the APA "task force concluded that sexual orientation change efforts can pose critical health risks to lesbian, gay, and bisexual people." The APA actually concluded, but has not corrected SB 1172 promoters, that: "[T]here are no scientifically rigorous studies of recent SOCE that would enable us to make a definitive statement about whether recent SOCE is safe or harmful and for whom" (*Report of the American Psychological Association Task Force on Appropriate Therapeutic Responses to Sexual Orientation* (http://www.apa.org/pi/lgbt/resources/therapeutic-response.pdf), p. 83; cf. p. 67, 120).

- In general, in the 2009 APA task force report, the APA declared that therapist reports, as well as patient/client reports, showed that reports of patients/clients "benefitting" from SOCE were methodologically *unacceptable,* but that anecdotal reports of "harm" by alleged patients/clients *were* considered *acceptable.* These anecdotal reports were then used as evidence of harm. Other evidence of methodological and ideological biases have been reported as well.

James E. Phelan, Arthur Goldberg, and Christopher Doyle. (2012). A critical evaluation of the Report of the Task Force on Appropriate

Therapeutic Responses to Sexual Orientation, resolutions, and press release. *Journal of Human Sexuality,* 4, 41–69 (cf. http://narth.com/).

Christopher H. Rosik. (2012). Did the American Psychological Association's *Report on Appropriate Therapeutic Responses to Sexual Orientation* apply its research standards consistently? A preliminary examination. *Journal of Human Sexuality,* 4, 70–85 (cf. http://narth.com/).

- The framers of SB 1172 did not even cite their main source—the APA, one of the biggest foundations of their entire case—correctly. The negligence, if not fraud, cited above concerning the APA and "harm" is an example of unethical scientific-professional activism that is exhibited by all of the national mental health professions in North America.

- *Every* approach to medical and mental health care has the potential for harmful, or at least unwanted, side effects. And no approach is guaranteed to work for any particular patient or client, even if "taken or used as directed." Lambert (2013) reports that reviews "of the large body of psychotherapy research, whether it concerns broad summaries of the field of outcomes of specific disorders and specific disorders and specific treatments" lead to the conclusion that, while all clients do not report or show benefits, "psychotherapy has proven to be highly effective" (p. 176) for many clients. Unfortunately, research "literature on negative effects" also offers "substantial . . . evidence that psychotherapy can and does harm a portion of those it is intended to help." These include "the relatively consistent portion of adults (5% to 10%) and a shockingly high proportion of children (14% to 24%) who deteriorate while participating in treatment" (p. 192).

Lambert, M. (2013). The efficacy and effectiveness of psychotherapy. In Michael J. Lambert (Ed.), *Bergin and Garfield's Handbook of Psychotherapy and Behavior Change* (6th ed.), pp. 169–218. Hoboken, NJ: Wiley.

- Yet, the APA persistently mentions the "potential for harm" *only* for sexual orientation change efforts (SOCE). On the other hand, Christopher Rosik, PhD, president of the National Association for Research and Therapy of Homosexuality, stated, "Anecdotal stories of harm are no basis from which to ban an entire form of psychological care. If they were, the psychological professions would be completely out of business."

- The APA is in violation of the first point in its own *Ethical Practices and Code of Conduct,* which states: "If psychologists learn of misuse or misrepresentation of their work, they take reasonable steps to correct or minimize the misuse or misrepresentation" (Code of Conduct 1.01, Misuse of Psychologists' Work) (http://www.apa.org/ethics/code/principles.pdf).

These examples illustrate two recent incidents of ideologically biased and legally sanctioned intolerance and discrimination toward medical and mental health professionals and minor children and their parents who would choose to be patients or clients of the professionals.

Reports indicate that similar legislation is pending in three additional states in the United States, and the IFTC reported two years ago at this OSCE ODIHR previously in the 2011 HDIM about instances of professional intolerance and discrimination in the United Kingdom and Poland (http://www.osce.org/odihr/83505). Both past and recent

instances of legally sanctioned intolerance and discrimination violate a number of rights upheld by the Convention on the Rights of the Child (CRC) (http://files.meetup.com/3480872/Convention%20on%20the%20Rights%20of%20the%20Child%20.pdf). These include the right

- and responsibility that when adults make decisions that affect children, the best interests of children must be the primary concern (CRC, 3, 9, 18, 20, and 21).

- of families to be allowed to direct and guide their children so they can grow and reach their potential, and the responsibility of governments to support them in doing so (CRC, Preamble, 3, 5, 7, 9, 16, and 29).

- of children to procure and share information, form and express their opinions, and otherwise be involved in decision-making appropriate to their level of maturity, especially when adults are making decisions that affect the children's welfare (CRC, 12 and 13).

- of children to think and believe what they want and to practice their religion, and of parents to provide religious and moral guidance to their children (CRC, 2, 14, 29, and 30).

- of children to have access to information that is important to their health and well-being and the responsibility of governments to encourage mass media—radio, television, newspapers, and Internet content sources—to provide information that children can understand and to not promote materials that could harm children (CRC, 17, 19 and 23).

- of parents to provide appropriate guidance to their children, and the responsibility of governments to provide support services to parents in doing so (CRC, Preamble, 18).

- of children to an education that would develop their personality, talents, and abilities to the fullest (CRC, 18, 23, 28, and 29).

Such laws also violate a number of the rights upheld by the Universal Declaration of Human Rights (UDHR) (http://www.un.org/en/documents/udhr/ index.shtml#a11). These include the right of adults, as well as children, to

- freedom for the full development of one's human personality (UDHR, 26).

- medical care and necessary social services (UDHR, 25).

- freedom of thought, conscience, and religion (UDHR, 18).

- freedom of opinion and expression, which includes the freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media (UDHR, 19).

- the protection of the law against arbitrary interference with one's privacy or family and attacks on one's honor and reputation (UDHR, 12).

We therefore recommend to OSCE Participating States:

In light of the aforementioned fundamental rights upheld by the Convention on the Rights of the Child and the Universal Declaration of Human Rights:

1. To recognize and condemn intolerance and discrimination against sexual minorities who freely choose to receive help in order to overcome or diminish their unwanted sexual attractions, orientation, behaviors, and/or identity.

2. To draft legislation to safeguard the freedom of medical and mental health practitioners and educators to offer their professional guidance and therapeutic expertise to all people whose own sexual minority concerns are unwanted and who freely choose help in order to overcome or diminish their unwanted sexual attractions, orientation, behaviors, and/or identity. This includes minor children who themselves freely seek such services with the consent of their parents.

We recommend to OSCE/ODIHR and OSCE Missions:

1. To be aware of and condemn intolerance and discrimination against sexual minorities who freely choose help in order to eliminate, diminish, or manage unwanted feelings, thoughts, behavior, and/or identity.

2. To assist OSCE participating states in monitoring and drafting legislation, with special attention to safeguarding the above-mentioned rights upheld by the CRC and the UDHR.