

**CITY OF BETHLEHEM**

**Inter-Office Memorandum**

**SUBJECT:** Proposed Ordinance – Appropriate Mental Health Services  
**TO:** Members of Council  
**FROM:** Bryan G. Callahan, Member of Council  
**DATE:** May 3, 2018

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Attached is a proposed Ordinance to establish a new Article titled Appropriate Mental Health Services. The proposed Ordinance would prohibit, within the geographic boundaries of the City, the use of conversion therapy with minors, which has been demonstrated to be harmful to the physical and psychological well-being of lesbian, gay, bisexual, and transgender persons.

I would appreciate Council's consideration of the proposed Ordinance.

Thank you.

  
Bryan G. Callahan, Member of Council

Attachment

CC: J. Spirk, Jr., Esq.  
Mayor  
A. Karner  
K. Wenrich  
W. Leeson, Esq.  
M. Deschler, Esq.

Bill No. \_\_\_\_\_

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF BETHLEHEM, COUNTIES OF LEHIGH AND NORTHAMPTON, COMMONWEALTH OF PENNSYLVANIA, ESTABLISHING ARTICLE \_\_\_\_\_ OF THE CODIFIED ORDINANCES OF THE CITY OF BETHLEHEM, TITLED “APPROPRIATE MENTAL HEALTH SERVICES”, PROVIDING FOR THE PROHIBITION OF CONVERSION THERAPY FOR MINORS

THE COUNCIL OF THE CITY OF BETHLEHEM HEREBY ORDAINS AS FOLLOWS:

SECTION 1: Article \_\_\_\_\_ of the Codified Ordinances of the City of Bethlehem, titled “Appropriate Mental Health Services”, is hereby established and shall read as follows:

ARTICLE \_\_\_\_\_  
Appropriate Mental Health Services

Article \_\_\_\_\_.01. General Purpose.

The City has a compelling interest in protecting the physical and psychological well-being of minors, including lesbian, gay, bisexual, transgender and questioning youth, and in protecting its minors against exposure to serious harms caused by conversion therapy. Based upon conclusions rendered by the American Psychiatric Association, the American Psychological Association, the American Academy of Child and Adolescent Psychiatry, the American Academy of Pediatrics, the American Medical Association Council of Scientific Affairs, the National Association of Social Workers, the American Counseling Association Governing Council, the American School Counselor Association, the American Psychoanalytic Association, the Pan American Health Organization, the Substance Abuse and Mental Health Services Administration of the United States Department of Health and Human Services, City Council hereby finds that being lesbian, gay, bisexual, or transgender is not a disease, disorder, illness, deficiency, or shortcoming, and that research has demonstrated conversion therapy can pose critical health risks to lesbian, gay, bisexual, or transgender persons. Therefore, it is the desire of the City Council to prohibit, within the geographic boundaries of the City, the use of conversion therapy with minors, which has been demonstrated to be harmful to the physical and psychological well-being of lesbian, gay, bisexual, and transgender persons.

Article \_\_\_\_\_.02. Definitions.

The following words, terms, and phrases, when used in this Article, shall have the meanings ascribed to them in this Article, except when the context clearly indicates a different meaning:

**“Business license”** means the Business Privilege and Mercantile Tax License, the issuance of which is required by City ordinances and regulations to permit a person to operate a business in the City.

**“Conversion therapy”** means any practices or treatments that seek to change an individual’s sexual orientation or gender identity, including efforts to change behaviors or gender expressions or to reduce or eliminate sexual or romantic attractions or feelings toward individuals of the same gender. Conversion therapy does not include counseling that:

- a) Provides assistance to a person undergoing gender transition; or
- b) 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, if such counseling does not seek to change an individual’s sexual orientation or gender identity.

**“Licensed mental health professional”** means a medical doctor licensed by the Pennsylvania State Board of Medicine who specializes in the field of psychiatry or a psychologist licensed under the act of March 23, 1972 (P.L.136, No.52), known as the Professional Psychologists Practice Act

**“Mental health professional”** means an individual who is licensed, certified or otherwise authorized to administer or provide professional mental health care or counseling under the act of March 23, 1972 (P.L.136, No.52), known as the Professional Psychologists Practice Act, the act of July 9, 1976 (P.L.817, No.143), known as the Mental Health Procedures Act, the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, or the act of July 9, 1987 (P.L.220, No.39), known as the Social Workers, Marriage and Family Therapists and Professional Counselors Act.

**“Minor”** means a person less than eighteen (18) years of age.

**“Person”** means natural persons, corporations, trusts, partnerships, incorporated or unincorporated associations, and any other legal entities.

\_\_\_\_.03. Conversion Therapy Prohibited.

- (a) General rule. -- A mental health professional shall not engage in conversion therapy with a minor.
- (b) Consent of minors.-- Nothing in this Article shall be construed to prevent a minor from voluntarily consenting to mental health care as provided in the act

of February 13, 1970 (P.L.19, No.10), entitled "An act enabling certain minors to consent to medical, dental and health services, declaring consent unnecessary under certain circumstances."

\_\_\_\_.04 Penalty.

The penalty for a violation of Section \_\_\_\_\_.03 shall be revocation of the licensee's business license, after notice and hearing.

\_\_\_\_.05. Appropriate Mental Health Services Appeals Board.

(a) There is hereby established an Appropriate Mental Health Services Appeals Board.

i. The Appropriate Mental Health Services Appeals Board shall consist of five (5) members - a member of City Council, the Health Director or designee, a Licensed mental health professional, and two private citizens nominated by the Mayor and confirmed by the City Council.

ii. The initial terms of the members of the Appropriate Mental Health Services Appeals Board are as follows:

Licensed mental health professional - 4 years

Health Director or designee - 3 years

Private citizen - 3 years

Member of City Council - 2 years

Private citizen - 2 years

iii. After the initial terms have expired, members of the Appropriate Mental Health Services Appeals Board shall be appointed for terms of four (4) years.

iv. After all members have been appointed, the Appropriate Mental Health Services Appeals Board shall hold an organizational meeting within thirty (30) days to appoint a Chair and Vice-Chair.

v. Thereafter, an organizational meeting shall be held annually.

vi. At its first and annual organizational meetings, the Appropriate Mental Health Services Appeals Board shall decide whether to engage stenographic services to record hearings for the ensuing year.

\_\_\_\_.06. Enforcement: Investigation of Complaints of Violation, Notice and Hearing.

(a) There is hereby established a Complaint Administrator to investigate complaints for the violation of Section \_\_\_\_\_.03 of this Article. The Health Director or the designee thereof shall serve as the Complaint Administrator.

(b) Neither the Complaint Administrator nor the Appropriate Mental Health Services Appeals Board shall have the ability to compel the production of records or any materials that are made confidential by federal or state law or that are protected from disclosure by a lawful privilege, unless a valid waiver of the privilege is made.

(c) The Complaint Administrator and the Appropriate Mental Health Services Appeals Board shall not divulge confidential or privileged information that is disclosed during the Enforcement process under this Section \_\_\_\_\_.06 to anyone outside the Enforcement process.

(d) Notice of a violation of Section \_\_\_\_\_.03 shall be given to the licensee in writing by the Complaint Administrator, setting forth specifically the grounds of the violation. The notice shall clearly state that, unless the licensee submits a written objection to the notice of violation to the Appropriate Mental Health Services Appeals Board within ten (10) of the date of the notice, the licensee's business license shall be revoked. The notice of violation shall be mailed, postage prepaid, to the licensee at the licensee's last known address.

(e) A licensee may request a hearing on the notice of violation by submitting a written objection to the notice of violation to the Appropriate Mental Health Services Appeals Board within ten (10) days of the date of the notice. A failure to submit a timely written objection shall result in the immediate revocation of the licensee's business license. A licensee who submits a timely written objection may continue to operate pending the decision on the violation by the Appropriate Mental Health Services Appeals Board.

(f) It shall be the responsibility of the Appropriate Mental Health Services Appeals Board to hold hearings to review all written objections to a notice of violation. Hearings shall occur at monthly public meetings. Monthly meetings may be cancelled if there are no pending objections as of ten (10) days prior to the scheduled meeting. All hearings on objections to a notice of violation shall occur within forty-five (45) days of the date of submission of the written objection.

(g) The Appropriate Mental Health Services Appeals Board shall serve written notice of the date, time and place of the hearing upon the licensee and the Bureau of Health at least twenty (20) days prior to the date of the hearing. The notice of hearing served upon the licensee shall be mailed, postage prepaid, to the licensee at the licensee's last known address.

(h) Failure to hold a hearing within the allotted time shall result in the objection being sustained and the notice of violation being dismissed.

(i) All hearings shall be conducted pursuant to the requirements of the Local Agency Law (Subchapter B of Chapter 5 and Subchapter B of Chapter 7 of Title 2 of the Pennsylvania Consolidated Statutes). At the hearing, the Bureau of Health shall

have the burden of proving, by a preponderance of the evidence, that the licensee has violated Section \_\_\_\_\_.03. If a majority of the Appropriate Mental Health Services Appeals Board finds that the licensee violated Section \_\_\_\_\_.03, then the Appropriate Mental Health Services Appeals Board shall overrule the licensee's objection and direct that the licensee's business license be revoked. Otherwise, the Appropriate Mental Health Services Appeals Board shall sustain the objection and dismiss the notice of violation. A licensee has the right to retain the services of a court reporter or stenographer for the hearing at the licensee's sole cost should such service not be provided by the Appropriate Mental Health Services Appeals Board.

(j) The Appropriate Mental Health Services Appeals Board shall issue its decision to either sustain or overrule the objection within five (5) business days of the conclusion of the hearing. Notice of the decision shall be served upon the licensee and the Bureau of Health.

(k) Any licensee whose objection is overruled by the Appropriate Mental Health Services Appeals Board may file an appeal pursuant to 2 Pa.C.S. § 752 to the Court of Common Pleas of the county in which the licensee's business is licensed by the City.

(l) Any licensee whose objection is overruled by the Appropriate Mental Health Services Appeals Board may continue to operate during the pendency of appeal with the Court of Common Pleas.

SECTION 2: That all ordinances and sections thereof that are inconsistent with this Ordinance are hereby repealed.

Sponsored by \_\_\_\_\_  
\_\_\_\_\_

Passed finally in Council this \_\_\_\_\_ day of \_\_\_\_\_,  
2018.

\_\_\_\_\_  
President of Council

ATTEST:

\_\_\_\_\_  
City Clerk

This Ordinance approved this \_\_\_\_\_ day of \_\_\_\_\_,  
2018.

\_\_\_\_\_  
Mayor