



CHRISTIAN COUNSELORS & GENDER IDEOLOGY:

A Review of Current Legal Threats

“*So God created mankind
in his own image, in the
image of God he created
them; male and female he
created them.*

— Genesis 1:27

COUNSELORS ARE UNDER THREAT

The government should not be able to censor a counselor's speech. But this very thing is happening right now in America: The government is inserting itself into the private setting between a counselor and a client.

THINK IT CAN'T HAPPEN TO YOU?

Across the country, counseling laws that restrict free speech are springing up at the state and local levels. But the government cannot use private counselors as tools for imposing its views on clients.

Consider [Kaley Chiles](#), a licensed counselor in Colorado. Kaley helps her clients achieve the goals they set for themselves. Through conversation, she seeks to understand the issues her clients face and works to help them



identify root causes and find wholeness and flourishing. But under Colorado law, there are certain conversations Kaley can't have, even if they are requested by a client. Colorado prohibits licensed counselors from talking to clients who are minors if the goal of the conversation is to help the client become more comfortable with their sex. But the law explicitly allows conversations that push a client toward a gender transition.

If Kaley violates this law, she is subject to steep penalties, including fines of up to \$5,000, suspension from practice, or having her license revoked.

Alliance Defending Freedom wants to stand beside counselors like Kaley as they help clients answer life-altering questions, such as what it means to be a human or what it means to be a woman or a man. Counselors face these questions head-on, and we want to support them as they stand for God's truth.

This is viewpoint discrimination, and it's not only wrong — it's unconstitutional.

ADF Client Kaley Chiles

Kaley is a committed Christian and an experienced counselor. That's why she challenged this censorship law. She lost at the district court and appeals court, but the U.S. Supreme Court has agreed to hear her case and now has an opportunity to protect her and other counselors like her across the country who are subject to these unlawful restrictions.

If the Supreme Court rules against Kaley, every counselor in the nation could be at risk. Even if the court's decision strikes down the Colorado law, other states and cities will undoubtedly continue to try to impose their ideology on Christian counselors.

That's why this issue matters so much to faithful counselors like you.

ADF is privileged to represent Kaley's right to live and speak the truth, even if the government disagrees with her viewpoint.

The government has no business pulling up a chair in counseling sessions and silencing conversations it dislikes.

Bottom Line:

The government should not censor a counselor's speech. ADF is committed to protecting your right to speak freely with your clients.

WHY ARE TODAY'S RELIGIOUS COUNSELORS UNDER INCREASED THREAT?

Over the past few years, we have seen a dramatic increase in the legal and cultural pressure put on counseling professionals. Here are a few reasons why:

- More people are identifying as LGBTQ+ than ever before. In 2022, more than one fourth of Harvard University's incoming class identified as LGBTQ+.
- At the same time, recent local and state government actions (new laws, executive branch policies, and legal decisions) have increasingly promoted harmful gender ideology. Although the tide seems to be turning on this issue, much work remains to defeat gender ideology's harms.
- Counselors, psychologists, psychiatrists, and social workers are at the forefront. When individuals struggle with issues like sexuality and gender, such professionals are on the front lines, seeing the damage caused by ignoring the most basic scientific facts of biology. Christian counselors are caught between serving their clients with the care they want and need and facing pressure from a hostile government and culture.

Bottom Line:

We've seen positive changes in the effort to defeat gender ideology – from presidential executive orders to U.S. Supreme Court decisions to cultural shifts. Yet many public officials have made it clear that they will continue to try to force faithful Christians to promote this radical ideology. The fight isn't over yet.

WHERE ARE THREATS TO CHRISTIAN COUNSELORS COMING FROM?

State and local officials are abusing professional licensing requirements, implementing unjust laws, and using the power of the state to silence counselors of faith.

STATE & LOCAL LICENSE REQUIREMENTS

In 2005, the American Counseling Association's (ACA) Code of Ethics allowed counselors to refer clients to other counselors. Following the 6th Circuit Court of Appeals' decision in *Ward v. Polite*, the ACA added significant limits to the referral policy.

Ward v. Polite

Julea Ward was enrolled in Eastern Michigan University's (EMU) graduate counseling program. She was assigned to a client to discuss his same-sex relationship and recognized she had a values conflict because of her religious beliefs. Her supervisor allowed for a values-based referral, consistent with the ACA's Code of Ethics. But the university then turned the tables on Julea, charging her with violating two provisions of the ACA code — a provision against imposing values on clients and a provision against discrimination — and took her through a disciplinary process in which university professors targeted and denigrated her religious beliefs. In the end, EMU expelled her. ADF represented Julea and won this case in 2012, but the ACA responded by rewriting their ethics code and removing values-based referrals.

Under the ACA's Code of Ethics, a counselor can no longer refer a client to another counselor if the counselor's own religious convictions are sufficiently different than the paths the client wants to pursue to the point that the counselor believes he or she cannot effectively assist the client without violating his or her own conscience.

21 STATES NOW INCORPORATE THE ACA CODE OF ETHICS IN SOME FORM

For example, Iowa explicitly adopts the ACA Code of Ethics. The Iowa Board of Behavioral Science has the authority to impose disciplinary sanctions on counselors who seek a values-based referral.

If a marriage counselor in Iowa refers a same-sex couple to another counselor because he believes that encouraging them to continue living as a same-sex couple is hurting instead of helping them, he could face disciplinary action — which could include civil penalties and a complete revocation of his license.

Some states incorporate different third-party ethics rules, such as that of the American Association for Marriage and Family Therapy or some other state-incorporated code.





PUBLIC ACCOMMODATION LAWS

State and local laws can be misused to force counselors to speak and act in a way that violates their religious beliefs on gender and sexuality. Public accommodation laws were originally created to eliminate discrimination. But now they are being used to silence or compel those who oppose radical views on controversial topics – like gender and sexuality – to violate their beliefs.

Like the ACA Code of Ethics, these laws can be abused to force counselors to agree with or “affirm” a client’s gender confusion and encourage them to take steps to identify and present as the opposite gender.

- States like New York are even interpreting these non-discrimination laws to compel so-called “preferred pronouns.” For example, New York’s public accommodation law makes it illegal to deny any person accommodations based on “gender identity or expression.” And New York admits that this law includes “refusing to use an individual’s requested name or pronouns.”
- In New York City, if a person intentionally uses biologically accurate pronouns, so-called “misgendering,” they could be subject to a \$250,000 fine.

Laws open to this sort of abuse exist in at least 29 states and 330 municipalities. It is important to know what the laws are in your area. Look up the laws in your state or city or contact us at [ADFlegal.org](https://www.adflegal.org) for more information.

STATE & LOCAL COUNSELING BANS

Counseling censorship laws that restrict counselors from having conversations with their clients that the government doesn’t like – such as on matters of gender, sexual orientation, sexual behaviors, or sexual attractions – exist in at least 20 states and more than 100 municipalities.

Advocates of counseling censorship often deploy pejorative labels like “conversion therapy,” “reparative therapy,” or “sexual orientation change efforts.” There is a negative stigma around these terms, but the truth is, what governments are targeting is conversation, listening, and advice. This hinders a patient’s ability to set and reach certain goals with a professional counselor’s help. When the government censors counselors, it robs both counselors and clients of their freedom.

EXAMPLES OF THESE LAWS IN ACTION

Tingley v. Ferguson

Brian Tingley is a licensed marriage and family counselor who has been practicing in Washington state for more than 20 years. During that time, he has helped adults, couples, teenagers, and children identify and achieve the goals that they set for themselves, according to their own moral values and religious beliefs.

Under Brian's guidance, his clients have pursued meaningful and positive changes in their lives. But Washington's law is threatening to punish him if he continues his practice. He could face a \$5,000 fine per violation and suspension or loss of his license. The U.S. Supreme Court declined to hear Brian's case but will hear Kaley Chiles's case challenging a nearly identical law later this year.

Otto v. City of Boca Raton

The Court of Appeals for the 11th Circuit invalidated the counseling censorship law of Boca Raton, Florida. The city's ban restricted Christian counselor Robert Otto's speech and denied him the right to provide critical counseling to his clients. But the court struck down this law and protected his speech.

ADF Client Brian Tingley

Wyatt Bury, LLC v. City of Kansas City

Kansas City and Jackson County, in Missouri, each have an ordinance that censors the speech of licensed counselors. Two private counselors and the attorney general of Missouri have filed a lawsuit to challenge these ordinances. Like the laws in *Tingley*, *Chiles*, and *Otto*, the city and county ordinances prohibit conversations between a counselor and a client who is a minor that assist a child in embracing his or her sex, but they allow conversations aimed at facilitating the child's acceptance of an opposite-sex identity. The ordinances are leading counselors to self-censor their conversations with clients and even decline potential clients to avoid significant penalties for running afoul of the ordinance.

FEDERAL POLICY

Threats to counselors can also come through federal administrative action. Under the Biden administration, the U.S. Department of Health and Human Services reinterpreted "non-discrimination" on the basis of sex in the Affordable Care Act to include gender identity. Rules like this could be applied to counselors, social workers, psychologists, and psychiatrists in how they talk to clients and what they are allowed to say. Consider the following cases:

State of Missouri v. Becerra; American College of Pediatricians v. Becerra; State of Florida v. U.S. Department of Health and Human Services; Catholic Medical Association v. U.S. Department of Health and Human Services

The American College of Pediatricians and the Catholic Medical Association have physician members around the country. The Biden administration's non-discrimination mandate attempted to coerce physicians to "affirm" gender identity, use pronouns that reinforce a patient's gender of choice, and enter inaccurate information into medical charts and records. The mandate also censored doctors from informing patients about the potential risks of these procedures by prohibiting them from talking about the dangers of experimental interventions or the reality of "gender transition" regret, on the theory that biologically correct and biblical views of sex and gender create a hostile environment.

The Biden administration also issued an executive order on June 21, 2022, that directed the Federal Trade Commission to consider imposing a nationwide ban on so-called “conversion therapy” by branding it as false advertising and an unfair trade practice under the Federal Trade Commission Act. Thankfully, the change in administrations has rendered this action moot, but as seen in state bans, labels like “conversion therapy” are often defined broadly by hostile regulators to sweep in any biologically correct and biblical views of sex and gender provided during counseling, even when the client specifically seeks that approach.

PRIVATE ORGANIZATIONS

Professions such as health care, law, and counseling, which require membership in a private organization, are under threat. Private organizations are creating rules that continue to perpetuate lies about gender and sexuality. Professionals who must follow these rules may be in danger of losing free speech and religious liberty rights. Below are two examples of this threat.

The American Counseling Association

This group has acted against counselors of faith by imposing significant restrictions on values-based referrals following the Eastern Michigan University counseling program’s loss in *Ward v. Polite*. Professional groups have chosen to change their rules instead of allowing religious liberty and viewpoint diversity within their memberships.

The American Medical Association

This group has explicitly endorsed efforts to promote “gender-affirming care” — which includes the administration of dangerous puberty-blocking drugs that can permanently sterilize patients and experimental surgeries that remove healthy body parts. If the group includes this so-called “care” as part of the “standard of care” required of all members, doctors could lose their membership simply for adhering to biologically correct and biblical views of sex and gender.

Bottom Line:

Christian counselors face a wide variety of threats to their fundamental rights. It is critical that we continue to advocate fiercely for your God-given, constitutionally protected right to have open, honest conversations with your clients. That shouldn't be negotiable.

WHAT CAN YOU DO?

STAY INFORMED

It's critical to know what laws and professional conduct regulations may be threatening your rights. Once you are aware, you can consider the best path forward. Sign up for The Brief at ADFLegal.org/TheBrief to get up-to-date information about new cases and developments that could impact your practice.

EDUCATE

Many people are unaware of the threats that counselors face. Sharing information on these threats with other counselors, church leaders, and even family and friends allows them to better understand the legal landscape, support counselors, and learn about detransitioners like Prisha Mosley who suffer when they don't have access to honest counsel from caring professionals like Brian Tingley or Kaley Chiles.

PRISHA'S STORY

As a teen, Prisha had experienced severe trauma and was enduring agonizing depression and mental health disorders. In spite of that, she was misled by doctors and counselors and subjected to life-altering and permanently damaging drugs and surgeries. By God's grace, she is now embracing her true identity and has filed a lawsuit against those who harmed her.



Scan to learn more about [Prisha's story](#).

As medical professionals have failed in their duty to heal and not hurt their patients, some detransitioners are beginning to seek legal remedies. Josh Payne, an attorney who co-founded the law firm Campbell Miller Payne, PLLC, says that an increasing number of detransitioner lawsuits stem from the fact that patients were not only harmed but lied to by those with whom they entrusted their care.

Payne says that health care professionals have deceived patients by telling them that harmful drugs and procedures are going to be the answer to their problems, when in reality, they cause physical and psychological harm.

ADVOCATE

While certain laws can threaten the rights of counselors, good laws can help bolster your protection. Advocating for medical rights of conscience laws to include the rights of mental health professionals or advocating for separate laws that protect the conscience rights of mental health professionals fortifies the legal protection for your rights.

You can help safeguard your fundamental rights. Start by making your voice heard! Contact your elected representatives to ensure they support your right to live your faith. They might not be familiar with the issues facing counselors like you, so this is a great opportunity to lend your expertise to help them evaluate these issues.

Prisha Mosley



GET INVOLVED

Join a professional community committed to defending faith and mental health care. By joining the Ethics and Advocacy Division of the American Association of Christian Counselors, our allied partner, you can stand alongside like-minded professionals who are passionate about protecting religious liberty and preserving the integrity of faith-based counseling.

As a member, you'll be part of a movement advocating at every level – local, state, and federal – for strong ethics and religious liberty protections for counselors.



Scan to [learn more](#).

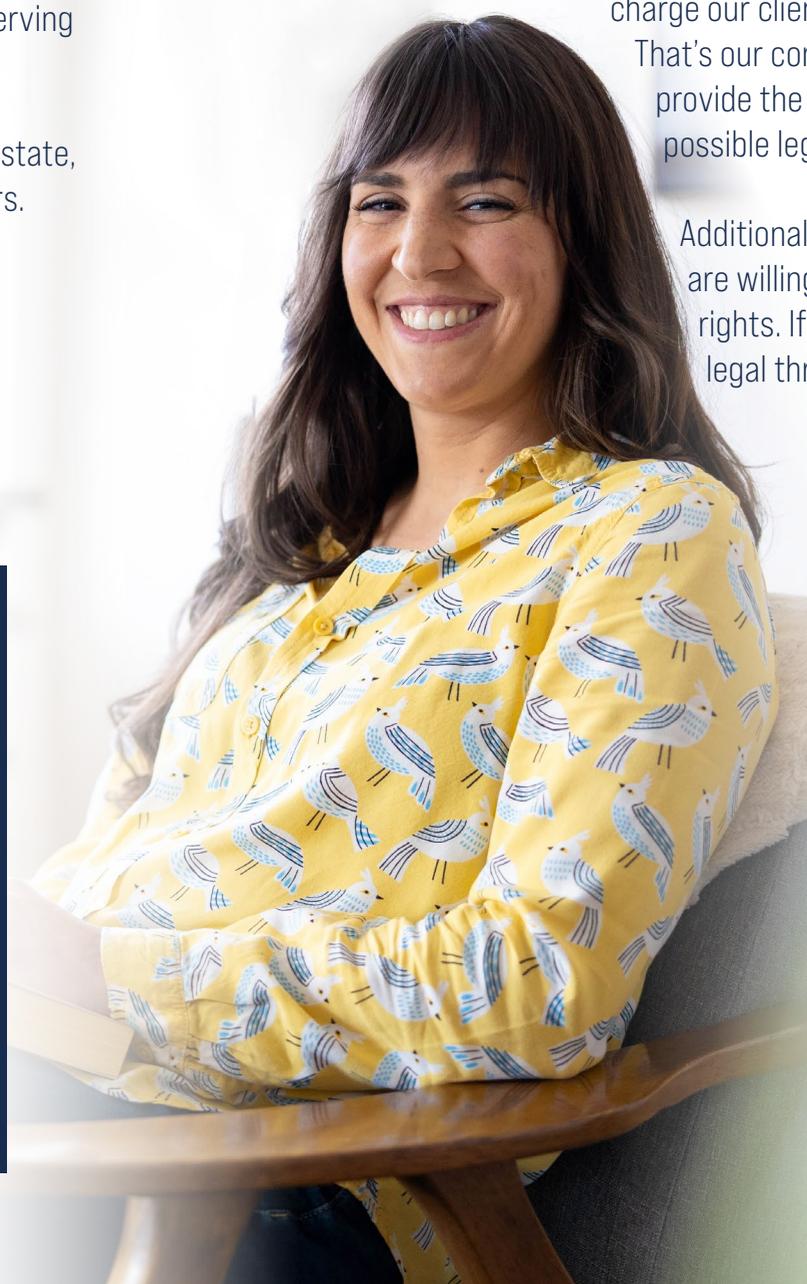
You aren't powerless! By staying informed, educating those in your community, advocating for laws that protect speech and religious freedom, and getting involved in the political and professional arenas that impact your career, you can make a real difference.

CONTACT US!

ADF stands ready to protect your right to speak freely – not just in the abstract but also within the very real confines of the confidential counselor-client relationship. If your rights have been violated, contact us immediately. We never charge our clients a dime to defend them in the courtroom.

That's our commitment. Our generous Ministry Friends provide the support necessary to give you the best possible legal defense.

Additionally, we are looking for brave individuals who are willing to stand up for counselors' First Amendment rights. If you would like more information about these legal threats and how you can help, contact ADF today.



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HOW YOU CAN PRAY

Church leaders must be informed about the threats to counselors (including those in their midst) and do their part to stand with counselors and defend their God-given right to speak freely – without fear of government pressure or punishment.

The prayers of those who trust in Him are powerful. As we continue to advocate for the fundamental rights of Christian counselors, we need the prayers of everyone in the alliance. John 15:5 says, ***“I am the vine; you are the branches. If you remain in me and I in you, you will bear much fruit; apart from me you can do nothing.”***

PLEASE JOIN US IN PRAYER

- Pray for strength for counselors like Kaley Chiles. Her case is currently before the U.S. Supreme Court. Ask that the Lord would provide continued strength and wisdom for Kaley and her legal team.
- Pray for clarity for our lawmakers. Our laws should adhere to the First Amendment’s protections for speech and religious expression. That includes the right for counselors to speak openly and honestly with their clients.
- Pray for boldness for the Church.

Thank you for standing with ADF. With God’s blessing and your support, we can help ensure that Christian counselors can speak the truth of the Gospel to their clients. Kaley’s favorite verse is 1 Thessalonians 5:23-24, stating: ***“May God himself, the God of peace, sanctify you through and through. May your whole spirit, soul and body be kept blameless at the coming of our Lord Jesus Christ. The one who calls you is faithful, and he will do it.”***

“AND HE WILL
BE CALLED
WONDERFUL
COUNSELOR ...

— Isaiah 9:6

MY PRAYER TODAY

DEAR LORD,

We praise You for Your unfathomable goodness to us. Your ways are higher than ours, and we rest in the comfort of Your mercy and grace.

Our fallen world is in need. So many are suffering, and we thank You for providing counselors who rely on Your wisdom. Please strengthen them as they strive to serve You and their clients, while many in our government seek to restrict their speech or even silence them completely.

Thank You for courageous men and women like Brian Tingley and Kaley Chiles who abide in You and have stepped forward to challenge these unjust laws. Protect them and their families. Use them to help bring healing to many and to advance the Gospel for Your glory.

AMEN.

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