

Subject: Bylaw No. 19/029 - Conversion Therapy Bylaw**APPROVALS:****Annette Antoniak**_____
Director_____
Chief Administrative Officer**Recommended Motion:**

THAT Bylaw No. 19/029, being a Conversion Therapy Bylaw, be read a first time.

Summary:

Conversion therapy is not a recognized health service in Alberta and cannot be provided by any regulated health professional in Alberta. Psychologists and psychiatric nurses are regulated under Alberta's Health Professions Act ("HPA"). Therapists are expected to be regulated under the HPA in the winter of 2019/2020. The various associated colleges and health professions manage their members directly to sanction them if an unrecognized health service is being provided of which they become aware. The practice of conversion therapy is opposed by the Canadian Psychological Association.

Background:

Conversion therapy has many definitions. Administration recommends the definition used by the Government of Canada in a Bill being advanced pursuant to the exclusive federal jurisdiction over criminal law. The proposed Bill will criminalize the delivery of conversion therapy on minors and the receipt of financial or other material benefit from the practice. It is defined as meaning:

"...any practice, treatment, counselling, or service that seek or are designed to change an individual's sexual orientation or gender identity, or to eliminate or reduce sexual attraction or sexual behaviour between persons of the same sex. For greater certainty, this definition does not include a surgical sex change or any related service by a medical professional."

Administration sought and was provided with an external legal opinion regarding legal issues that would arise if the Regional Municipality of Wood Buffalo (Municipality) enacted a bylaw banning conversion therapy within the Municipality. Some key points made in the opinion were:

- remain within the legal jurisdiction of the Municipality to make bylaws for the safety, health and welfare of people;
- avoid entering the realm of criminal law which is solely within federal jurisdiction; and
- persons delivering conversion therapy might advance challenges based upon rights enshrined in section 2 of the Canadian Charter of Rights and Freedoms, namely the right of freedom of expression as it relates to advertising and the freedom of conscience and religion.

On October 22, 2019, Council considered a motion as follows:

“THAT Administration prepare a bylaw to prohibit the licensing, practice and promotion of conversion therapy in the Regional Municipality of Wood Buffalo, looking at all mechanisms for the enforcement, including a \$10,000 fine, and to return to Council before the end of the year.”

The motion was passed.

In support of the motion, Council heard from and had before it, the 2019 report of Dr. Kristopher Wells, Associate Professor and Canada Research Chair for the Public Understanding of Sexual and Gender Minority Youth, McEwen University entitled Conversion Therapy in Canada: The Roles and Responsibilities of Municipalities about scientific consensus confirming conversion therapy is ineffective, that a majority of Canadians oppose conversion therapy and the harms caused by conversion therapy were described.

Council also heard from a presenter who is a member of a local Pride organization about his experience and concerns with conversion therapy.

Conversion therapy is opposed by the Canadian Psychological Association (CPA 2015 Policy Statement on Conversion Therapy is attached), the World Health Organization, Amnesty International and others.

Some Canadian governments at all three levels have taken or are taking steps to regulate or prohibit the practice of conversion therapy. The legislation being advanced is pursuant to federal criminal law powers, health law powers of provincial governments and municipal government powers to enact bylaws protecting health, safety and welfare and the licensing of businesses. Some examples are:

Federal:

- Canada - Bill S-260 to criminalize practice of conversion therapy - introduced in the Senate on April 9, 2019;

Provincial:

- Manitoba - the first province to ban conversion therapy in 2015 and the province does not endorse it in the province's healthcare system and expects its regional health authorities and health profession regulatory colleges to ensure that conversion therapy is not practiced in Manitoba's healthcare system;
- Ontario - introduced a Bill in 2015 to amend its *Health Insurance Act* and *Regulated Health Professions Act* to end the funding of conversion therapy under the province's health insurance plan;
- Nova Scotia - introduced legislation in September 2018, entitled *Sexual Orientation and Gender Identity Protection Act*, to make it illegal for health professionals to provide conversion therapy for those under the age of 19, and makes conversion therapy an uninsurable practice; and
- British Columbia - in May 2019 gave first reading to a Bill called the *Sexual Orientation and Gender Identity Act* to prohibit the provision of conversion therapy to minors and by persons in a position of trust or authority, to prohibit the payment of costs provided as a hospital service or professional service, and the expenditure of public funds for conversion therapy.

Municipal

- Vancouver, BC - the first Canadian city to ban businesses from offering conversion therapy services by amending an existing bylaw called the *Business Prohibition Bylaw*;
- Strathcona County, AB - in September 2019, this local government adopted a Conversion Therapy Prohibition Bylaw creating offenses for the performance of conversion therapy on a person under the age of 18 years and for any person performing conversion therapy on any other person without that other person's consent;
- Spruce Grove, AB - a resolution was passed directing administration to report to Council by mid-October 2019 on the potential to ban the practice of conversion therapy in Spruce Grove and potential changes under a Land Use Bylaw, Business License Bylaw and enforcement and find options;
- St. Albert, AB - passed a resolution in June 2018 directing administration to prepare a bylaw by December 31, 2019 to amend the Land Use Bylaw and Business Licensing Bylaw, create fines and make conversion therapy an unlawful business activity; and
- Edmonton, AB - a motion was passed directing administration to prepare a bylaw that prohibits the licensing, practice and promotion of conversion therapy, to include a \$10,000 fine, and other mechanisms under the zoning bylaw and business license bylaw.

Rationale for Recommendation:

Based on the information provided in this Report and research in other jurisdictions, Administration recommends Council approve the attached Bylaw prohibiting the practice and advertisement and licensing of conversion therapy in the Regional Municipality of Wood Buffalo.

Strategic Priorities:

Responsible Government

Attachments:

- 1. CPA 2015 Policy Statement on Conversion Therapy**
- 2. Proposed Bylaw No. 19-029 - Conversion Therapy Bylaw**