

## The *Dr. Dovid Schwartz* Case

**Case Name:** *Schwartz v. City of New York*

**Case Status:** On Jan. 23, Alliance Defending Freedom filed a federal lawsuit challenging New York City’s ordinance, passed in 2018, that declares some professional counseling unlawful.

**Significance:** Whether the government can censor private conversations between professional counselors and their adult patients.



**Background:** In 2018, the New York City Council adopted a law making it illegal for any person to provide services for a fee that “seek to change a person’s sexual orientation or seek to change a person’s gender identity to conform to the sex of such individual that was recorded at birth.” Notably, the law only prohibits counsel in one direction—assisting a patient who desires to reduce same-sex attraction or achieve comfort in a gender identity that matches her or his physical body. The law threatens increasing fines of \$1,000, \$5,000, or \$10,000 for first, second, and subsequent violations. Unlike other existing counseling censorship laws, it is unprecedented in its reach—extending to the counseling of willing adult patients.

The law applies to professional counselors like Dr. Dovid Schwartz, an Orthodox Jewish psychotherapist who is challenging the ordinance in federal court. In the course of his wide general practice, Dr. Schwartz regularly encounters and serves patients who want his help overcoming same-sex attraction. Because of their religious beliefs and personal life goals, clients who seek his counsel often desire to experience opposite-sex attraction so they can marry, form a natural family, and live consistently with their Orthodox Jewish faith. A number of patients have pursued and achieved those goals with the aid of his psychotherapeutic services. Dr. Schwartz uses no techniques in working with his patients other than listening and talking—yet the law claims to forbid even that.

### Key Facts

- New York City’s unprecedented law only prohibits counsel in one direction—assisting a patient who desires to reduce same-sex attraction or achieve comfort in a gender identity that matches her or his physical body.
- Almost all of Dr. Schwartz’ patients share his faith; they value his counsel about issues of sexuality and family from a perspective consistent with their shared faith.
- The counselor-patient relationship is so sensitive and important that it’s privileged under state law, just like conversations between a husband and wife.
- Courts have repeatedly kept the government from prying into conversations between individuals and their doctors.

### Key Points

- New York City doesn’t get to censor speech it disagrees with—that’s not what free speech means.
- The only conversations the government has any business policing involve conspiracy to commit a crime. It’s no crime to seek to live consistently with your faith.
- The government has no business dictating what personal goals you can or can’t pursue.
- When counselors are censored, it is the patients who are robbed of the freedom to pursue the lives they want.
- A counselor shouldn’t be used as a tool to impose the government’s views on his patients.

**The Bottom Line:** The government doesn’t belong in a therapist’s office. This law violates freedom of speech with a very private relationship.