

From: [REDACTED]
To: [Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee](#)
Subject: Submission for Health Legislation Amendment Bill 2019 - changes to Public Health Act section
Date: Sunday, 5 January 2020 10:30:11 PM
Attachments: [Submission Amendments to Public Health Act 2005.docx](#)

Hello

Please see attached my submission. I understand my contact details will be removed and also ask that my name is not included. I have found that discussion of these topics can result in doxxing, and attacks on a persons livelihood. I am open to discussing this request if necessary.

Thank you

[REDACTED]
Ph: [REDACTED]

The proposed changes appear to have several logical flaws and gaps that are concerning. As a community member I am concerned that the core of the issue is lost in these issues. To ensure that the goal of banning conversion therapy for same sex attracted people does not result in unintended clinical and legal consequences several changes to process and content are proposed for consideration by the Committee.

1. Application of the Definition of Gender Identity in clinical settings to ensure compliance with the Act.

Clinical issue:

- The draft changes to the Public Health Act 2005 define gender identity as an 'individual and internal' and then goes on to describe external behaviours.
- The difficulties for health professionals will be in using this definition where there is co-morbidity of other mental health conditions and/or overlap of these behaviours with other conditions, for example autism. This may create legal risk in treating these individuals.

Legal issue:

- To navigate legislative settings inadvertently find themselves focussing on one particular condition over another as there is legislation defining one condition that is without reference to others, for example autism.
- Given the definition of gender identity to be something, 'internal' and 'individual' there is both a measurement and constancy issue that may make it quite difficult for health professionals to confidently navigate treatment options.

Recommendation: Consider a similar approach to the Victorian Government and provide a discussion paper for consultation to avoid unintended consequences of legal settings and definitions

Reference materials:

<https://autismawarenesscentre.com/autism-transgender-gender-dysphoria/>

"Discussion paper: Legislative options to implement a ban of conversion practices",
Victorian Government

2. References to same sex attraction are missing.

Clinical issue:

- There is no statement indicating that Conversion Therapy does not include treatment that affirms same sex attraction or supports a person to understand their same sex attraction.
- Sexual orientation does not reference same sex attraction.
- Health professionals may be able to find a gap in the legislation that enables them to carry out conversation therapy for same sex attraction. For example, a health professional could insist that the a person is not same sex attracted but is same gender attracted and put in place therapies that support this belief without penalty.

Legal issue:

- The lack of definition regarding same sex attraction is concerning given that is the origin of this issue of Conversion therapy and particularly violent forms of conversion therapy including corrective rape of Lesbian and Bisexual females in particular.
- The sections of the Act intended to allow the Government to stop conversion therapy for Gay and Lesbian people may prove to be completely ineffectual by failing to mention same sex attraction.

Recommendation: Add references to same sex attraction to the Bill to ensure this legal gap no longer exists.

References:

<https://napp.org.au/2019/11/napp-statement-on-conversion-practices/>

3. Do these changes protect the most vulnerable people in our communities by ensuring the highest quality treatment for all?

Enforcement issue:

Given the current concerns by Health Professionals regarding therapies that may fall under the coverage of these changes:

- Are these changes sustainable and future proof for Health practitioners to be able to follow them?
- Do they prescribe Health Professionals in a way that they are unable to respond to new clinical information to improve their treatments for their patients?
- Further, what is the safety net for Health Professionals who raise concerns about existing practices?
- What engagement has occurred with child protection experts?
- What consideration has occurred in regards to the requests to conduct an enquiry into the treatment of Gender Dysphoria in children? Please note these include requests from health professionals that have worked with transgender young people.

Recommendations: Consider a similar approach to the Victorian Government and provide a discussion paper for consultation to avoid unintended consequences of legal settings and definitions

References:

<https://napp.org.au/2019/10/gender-dysphoria-national-enquiry/>

<https://feministlegal.org/call-for-national-enquiry-into-gender-dysphoria/#.XhHQH4NLh0w>

<https://www.theguardian.com/society/2019/feb/23/child-transgender-service-governor-quits-chaos>

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