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To: health@parliament.qld.gov.au

Submission to Health, Communities, Disability Services and Domestic and Family Violence
Prevention Committee

Health Legislation Amendment Bill 2019, Chapter 5B Conversion therapies

Dear Committee Members,

as a concerned citizen, I am familiar with the Health Legislation Amendment Bill 2019 and the Department's accompanying documents, and I attended the Public Hearing on 9th December, 2019. In particular, I would like to address Chapter 5B Conversion therapies. I strongly disagree with the definitions of core concepts upon which this legislative change rests, and especially with the position towards Conversion Therapy presented by the Department.

1. Definitions

Following a tendency in a range of legislatures, this chapter conjoins Sexual Orientation and Gender Identity (SOGI legislation). This is being done in order link legal protections for one group which are supported by the community at large with the novel claims for recognition of the interests put forward under the label of gender identity. At closer inspection, I believe that these two concepts as they have been defined in the proposed Bill, are highly questionable.

Section "213E Definitions for chapter" seeks to redefine Sexual Orientation:

sexual orientation, of a person, means the person's capacity for emotional, affectional and sexual attraction to, and intimate and sexual relations with, persons of a different **gender**, the same **gender** or more than 1 **gender**.

In my view, Sexual Orientation exists as a legal term for the purpose of protecting same-sex attracted people from discrimination. Hence, Sexual Orientation specifically pertains to persons that are Same-Sex attracted, or Bi-Sexual. Sexual Orientation as the words indicate, makes a statement about Sex, and not about gender. Gender is out of place in any definition of sexual orientation. The Department has chosen to substitute gender for sex in its draft, rendering this attempt of an assertion discombobulated.

Section "213G Meaning of gender identity" establishes this attribute as requiring a legal status:

Gender identity, of a person, is the person's internal and individual experience of gender, whether or not it corresponds with the sex assigned to the person at birth.

Gender Identity is the way a person performs a Gender role. It is commonly seen as a man performing femininity, or a woman performing masculinity, and 'non-binary', which means a person does not consider themselves to be of either gender. This has nothing to do with a person's sex, or sexual orientation. Gender is performance of masculine or female, whereas sex is an observable fact, determined at conception and observed and registered at birth and **not assigned**. Sexual orientation commonly refers back to a basic biological fact, whereas gender identity is based on an individual's awareness and ensuing performance. One concept is based on reality, the other on

the aspirations of people to seek special legal, and consequently social recognition. These concepts, upon which the Bill is attempted to be grounded, are obscure – in the case of sexual orientation – or prefers performance over reality – in the case of Gender Identity. It is highly risky to base legislation that directly and severely affects human lives on defective interpretations.

2. *Conversion Therapy*

The ban on Conversion Therapy, as presented in the Bill, covers only a fraction of its instantiations while making others mandatory. In Australia, the only known Conversion Therapies have been conducted in a religious context, and have become so rare that there is no hard evidence available of current practices, as mentioned in a document referred to in the explanatory notes¹. The need to ban conversion therapy seems to be justified only retrospectively, to excoriate practices that have been harmful in the past. Clerics and other faith practitioners, who have been engaged in this, however are not even mentioned in this context.

Affirmation treatment, which is exempt from the category of conversion therapies, may involve chemical and surgical interventions of which the consequences are lifelong and debilitating. Because of the impact of this treatment on people's healthy bodies, utmost diligence and sound judgement are required for clinicians if they seek to support patients on this path. This includes being able to explore and pursue differential diagnoses and alternative therapies. This is precluded by the Bill. For example, a clinician will not be allowed to explore a patient's background, or mental health problems that may contribute to that person wanting to transition. Instead, they are forced to give that person affirmation of their inclination unquestioned, acting under the threat of severe penalties.

There is ample evidence that the overwhelming majority of young people, and adults who want to transition, have one or more existing mental health issues such as depression, anxiety, suicidal ideation, and body hatred, especially with girls, including an unprecedented number of children who are autistic. A clinician should have the ability to explore the reasons for any person wanting to transition without fear of being penalised, including custodial sentences. If affirmation is all a practitioner can offer, then these people will not get the help they desperately need. Instead many children will be referred to Gender Clinics, which is a one-way street that this Bill will mandate.

International legislatures, such as Ontario, Canada and Malta² that have banned Conversion Therapies, simultaneously have mandated affirmation of minors by inhibiting, and prohibiting practitioners from exploring their patients' mental health in regards to transitioning. I sincerely hope that Queensland is not going to follow these examples, and that this bill does not pass in its current form. The decision makers should actually know the difference between Sexual Orientation and Gender Identity and also understand exactly what is and is not Conversion Therapy, for the sake of clinicians, who will not be able to provide proper support and treatment without fear of penalties, and also for the sake of minors who will be one-tracked into alterations of their healthy bodies, if this bill goes through as it is.

Sincerely,

Catherine Sutcliffe

1 Preventing harm, promoting justice, p.16 <https://www.hrlc.org.au/reports/preventing-harm>

2 Ibid, p. 50-51