Submission:
Health Legislation Amendment Bill 2019

AUSTRALIAN CHRISTIAN LOBBY

About Australian Christian Lobby

Australian Christian Lobby's vision is to see Christian principles and ethics influencing the way we are governed, do business, and relate to each other as a community. ACL seeks to see a compassionate, just and moral society through having the public contributions of the Christian faith reflected in the political life of the nation.

With more than 170,000 supporters, ACL facilitates professional engagement and dialogue between the Christian constituency and government, allowing the voice of Christians to be heard in the public square. ACL is neither party-partisan nor denominationally aligned. ACL representatives bring a Christian perspective to policy makers in Federal, State and Territory Parliaments.

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Committee Secretary
Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee
Parliament House
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6 January 2020

Dear Sir/Madam,

On behalf of the Australian Christian Lobby, I welcome the opportunity to make a submission in response to the Health Legislation Amendment Bill 2019.

The scope of the Bill covers many areas of health practice but I wish to contain my response to issues referred to as "conversion therapy". This might be better discussed by separating "aversion" therapies from other types of counselling and behavioural therapies. ACL is opposed to all aversion therapy and any coercive conversion therapies.

ACL believes that individuals must be freely able to seek spiritual advice or counselling which may assist them in leading fulfilled and meaningful lives. ACL also supports the right of parents to affirm their child's biological sex.

We make the following submission to assist in the development of realistic legislation in this sensitive area, and I would appreciate an opportunity to address the committee on this bill.

Yours sincerely,

Wendy Francis
State Director Qld and NT
[redacted]

The Australian Christian Lobby does not support any coercive conversion practices. 'Conversion therapy' has historically been associated with instances of brutality including physical and emotional tortures, and medical intrusions such as lobotomies, castration, and hormones, inflicted on a person against their will, in the mistaken belief that this may "correct" undesired behaviour, which included homosexual orientation. The literature suggests that such "therapy" was prevalent in the 1950s, 60s and 70s. This "conversion therapy" is rightly condemned in international law. There is no evidence that conversion therapy, in this sense, is being practiced anywhere in Australia and this Queensland bill which bans conversion therapy has not been drafted in response to a discovery that such barbaric practices are occurring.

This proposed new bill defines conversion therapy as any 'treatment or other practice that attempts to change or suppress a person's sexual orientation or gender identity'. This effectively bans any attempt to re-orientate a confused child back to a gender identity congruent with its chromosomes. This broad definition means that many doctors and counsellors will be unable to act in what they earnestly believe is in the child's best interests or long-term wellbeing, for fear of going to jail. The legislation will outlaw traditional medical practice for children confused about their gender. Even positive discussion of psychotherapies could be illegal. Future sufferers of gender dysphoria in Qld will no longer be legally offered once standard, non-medical treatment, seriously limiting a therapeutic approach.

SOGI – human identity re-imagined

Underpinning the ideal of liberty espoused by this Bill is a radical and unscientific understanding that human identity should be conceived as a matrix of gender identity (subjective feelings of being male, female both or neither) and sexual orientation. Each of these aspects of identity is represented as varying independently of one another and as unrelated to biological sex. In contrast to the gay rights movement which promotes sexuality being fixed from birth, analogous to race and therefore *as real* as something written into the body, the narrative of the transgender movement requires a belief that gender identity can be out of sync with the information conveyed by the body. In these cases, we are led to believe that the body is wrong and may need to be changed to convey the correct information about who someone *really* is. Subjective gender identity is regarded as *more real* than the body, the purpose of which is only to give expression to someone's 'sexual orientation and gender identity' (SOGI).

Activists argue that surgical interventions to align the body with the dis-embodied gender identity should be freely available to anyone, even when gender identity is acknowledged to be fluid. ("Just because something is changing and growing doesn't mean it isn't real.")[1]

[1] Nevo Zisin, "Beyond the Binary". This idea is further explored by Andrea Long Chu, "My New Vagina Won't Make Me Happy: And it shouldn't have to", New York Times, 24 November 2018. (https://www.nytimes.com/2018/11/24/opinion/sunday/vaginoplasty-transgender-medicine.html), where the author objects that "the medical professional [is installed] as a little king of someone else's body"; that doctors are 'gatekeepers' to surgery and hormone treatments on the supposition that doctors are best-placed to decide what will and what will harm their dysphoric patient. The author believes that "as long as transgender medicine retains the alleviation of pain as its benchmark of success, it will reserve for itself, with a dictator's benevolence, the right to withhold care from those who want it." Treatment, we are to understand, should be available on demand; patients should not have to satisfy any objective judgments of whether surgery and hormones are in the patient's best interests.

A SOGI human identity is essentially disembodied with your gender identity and sexual orientation, and unable to be deduced by observing the physical body or natal sex. This belief then makes it unethical for parents to bring their children up in conformity with their own convictions (a protected human right) where these convictions conflict with the SOGI understanding. The promotion of SOGI and the proposed criminalisation of alternative understandings of human identity have far-reaching potentiality to dismantle the family unit.

What sort of conversion therapy actually occurs?

In supporting a ban on "conversion therapy", the Explanatory Notes and the Queensland HRC refer to recommendations of the *Ending Sexual Orientation Conversion Therapy Roundtable* but neither document gives any references to these recommendations, the sources used in making the recommendations, or where the recommendations themselves may be accessed. The Explanatory Notes also refer to the 2018 La Trobe University Report *Preventing Harm, Promoting Justice: Responding to LGBT conversion therapies in Australia*.[2] There is no evidence provided by either of these sources that coercive conversion practices are actually occurring.

Methodology of La Trobe University report

The sample size of the La Trobe University report is disturbingly small. The report initially received interest from about 50 people, but a number were excluded by the study and another portion self-excluded which resulted in the report being based on a total of 15 responses.[3]

A number of serious methodological questions are raised by the study. These include:

- The objectivity of a study conducted by a coalition of organisations including a group that has a vested interest in the outcome viz Gay & Lesbian Health Victoria;
- The exclusion of persons who might have had positive experiences of 'conversion';
- The inability of the report to identify the availability of these programs and methods of recruitment; and
- A total of fifteen interviews does not suggest such practices are prevalent or widespread.

These methodological issues undermine any recommendations arising from this report.

The study disregards the experience of those who have successfully changed their sexual orientation or those who are de-transitioning. De-transitioning is an emerging trend.[4] This growing body of evidence is completely disregarded by the La Trobe study and the proposed legislation. The La Trobe study discusses many practices from the 1970s and 1980s which it admits are now discontinued. It gives no evidence of current practices of conversion therapy, where it is happening, who is involved, or how widespread it may be.

Many professionals in the fields of paediatrics, endocrinology and psychology do not agree with the definitions put forward in the proposed legislation.[5]

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[2] Jones, T, et al. *Preventing Harm, Promoting Justice: Responding to LGBT conversion therapies in Australia*. A joint initiative of the Human Rights Law Centre, Gay & Lesbian Health Victoria and La Trobe University. 2019.
[3] Op.cit. Jones et al. p.10
[4] https://www.transgendertrend.com/detransition/
[5] www.GenderInquiry.com

Queensland doctors and psychiatrists fear they will face jail if they continue counselling children who want to change gender under these proposed new laws outlawing 'conversion therapy'.

Recommendation:

The Law should never contradict scientific truth. If it is open to the experience of those who claim gender identities, then it should be inclusive of the experiences of those desiring to adopt a heterosexual orientation and those in the process of de-transitioning.

Challenge to professional integrity and client well-being

Under the proposed changes, health professionals can only legally support the acceptance of homosexuality and changing away from biological sex to some other gender identity. To neglect to 'affirm' a person's presumed sexual identity will be unacceptable under the proposed legislation. This presupposes that homosexuality or transitioning is always the correct choice. It disregards the growing number of people de-transitioning back to their biological sex. It also undermines the professional integrity of health practitioners who should be free to allow their clients to explore all options, including heterosexuality and identification with their biological sex.

Counselling is a legitimate therapy which helps to resolve conflicted situations. These situations may resolve in one way or another. The outcome will only become evident in the course of counselling. Health practitioners should never be pressured to resolve issues only in a pre-determined way. This legislation appears to remove autonomy in the type of therapy a client may seek, and yet the professional experience and opinion of psychologists, endocrinologists, and others, advises against the affirmative response as the only valid response.[6] They are aware of studies of those who have re-oriented their sexual preferences or who have sought de-transitioning and thereby question whether transgender practices are in the best interest of their clients. Others have clients who wish to explore options that do not presume same-sex or trans-gender orientations as being conclusive.

The proposed amendments will legally proscribe specialists from doing their job.

Procedures to question the professional judgment of medical practitioners already exist through appeals to professional bodies, and to government instrumentalities.

Freedom of choice and freedom to change that choice

There is no support in the proposed legislation for people who have successfully changed their sexual orientation or the growing number of people who are de-transitioning back to their biological sex. There is no room for freedom of choice, or freedom to change that choice. The evidence of those who have de-transitioned suggests that the gender change affirming counselling many received was inappropriate and caused them harm. In one survey the following observation was made:

> *117 of the individuals surveyed had medically transitioned. Of these, only 41 received therapy beforehand. The average length of counselling for those who did attend was 9 months, with*

[6] https://www.theaustralian.com.au/nation/warnings-over-surge-in-youth-transgender-cases/news-story/8b4efbf389a0bd61e664f93a5eaf7315

> *a median and mode of 3, minimum of 1, and a maximum of 60. I'd like to have something cool to say here, but I'm honestly just stunned at the fact that 65% of these women had no therapy at all before transition.*[7]

Counselling is not about blanket acceptance of the clients' self-assessment. An ethical health practitioner will encourage clients to explore all the options. This will help avoid the traumas associated with transitioning and de-transitioning.

Recommendations:

Clients should be free to engage health professionals who will discuss these issues and explore other possibilities apart from transitioning.

The Bill should clearly specify the therapies that are permissible and not permissible. As it stands the definitions in Section 213F are unclear and a potential legal minefield.

Conversion practices should not be imposed on those who do not seek them, but people of all sexual orientations or gender identities should be free to seek the professional help they believe will benefit them.

Are sex and gender identities and expressions 'immutable'?

With reference to the current Bill, the Queensland Human Rights Commission states:

> *LGBTIQ+ people are currently vulnerable to harm from practices that seek to supress or change their immutable characteristics of sexuality or gender identity.*[8]

The Christian view maintains that sexuality is binary; that human beings are born as either male or female having either XY or XX chromosomes and that this reality is immutable. Even with various stages of transitioning, our chromosomal, bodily nature, remains the same. We uphold the family as the natural and fundamental group unit of society and this is why it is entitled to protection by society and the State.[9] Parents have the right to affirm their children according to their biological sex and to seek professional help to do so. Under the proposed new legislation, parents seeking a doctor or counsellor's help for their young child confused about whether they are a boy or a girl will find their options limited.

Recommendations:

The changes proposed by the Health Legislation Amendment Bill 2019 must safeguard the rights of families, particularly:

The rights of parents to bring up children according to their values and beliefs; and the rights of individuals to seek help on sexual orientation and gender identity issues.

[7] https://guideonragingstars.tumblr.com/post/149877706175/female-detransition-and-reidentification-survey

[8] Queensland HRC email correspondence to Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee, reference: BNE3416962

[9] Universal Declaration on Human Rights, Article 16(3). https://www.un.org/en/universal-declaration-human-rights/

Transitioning unsafe for children

As outlined above, parents are the primary caregivers of children and they should be able to determine the care and treatment given to their children. It has already been established in the introduction that aversion and coercive therapies are legitimately outlawed. However, legally mandated "affirmation" is dangerous, particularly for children.

Clinicians, including health sociologist Geoff Holloway, 2019 Senior Australian of the Year and paediatrician Sue Packer, Western Sydney University paediatrics professor John Whitehall and developmental psychologist Dianna Kenny, have called for an urgent national inquiry into the safety and ethics of giving unproven hormone drug treatment to ever younger children who are confused about sex and gender. Many of these clinicians argue "that risks including infertility and lifelong regret outweigh the benefits to trans children and teenagers".[10]

Critics say still-maturing young people are immersed in a world where many parents, teachers, clinicians, friends and social media are captured by emotive promotion of trans status, while activists try to suppress scepticism or inquiry as "hateful transphobia".

Dr Holloway, who states that the role of culture in gender dysphoria is unmistakeable, said: "People who object to what's going on, they can lose their jobs, quite apart from being ostracised. This is supposed to be a scientific endeavour, not a witch hunt."[11]

Paediatricians and endocrinologists suggest that given no intervention, most children who identify as having gender dysphoria and who are allowed to proceed through puberty without medical or surgical intervention, revert to identifying as their biological sex:

> *Simple math allows one to calculate that for natal boys: resolution occurs in* **as many as** *100% – 2.2% = 97.8% (approx. 98% of gender-confused boys). Similarly, for natal girls: resolution occurs in* **as many as** *100% – 12% = 88% gender-confused girls.*[12]

In order to provide ethical and responsible care it is necessary to investigate all aspects of gender confusion, especially in children. Dr Rob Pollnitz, a retired paediatrician with 50 years' experience, said he believed gender confusion in children and adolescents was chiefly a psychological issue, not biological. "Before we give them unproven treatments with hormones and surgery, we ought to do our very best to sort out their psychological issues," he said. [13]

Under the new law any doctor, health professional or counsellor who fails to toe the gender-fluid line faces a $20,000 fine, 18 months behind bars or both. Some doctors or counsellors will be unable to act in what they earnestly believe is in the child's best interests or long-term wellbeing, for fear of going to jail.

[10] https://www.theaustralian.com.au/nation/warnings-over-surge-in-youth-transgender-cases/news-story/8b4efbf389a0bd61e664f93a5eaf7315
[11] Ibid.
[12] https://www.acpeds.org/the-college-speaks/position-statements/gender-ideology-harms-children
[13] https://genderinquiry.wordpress.com/

If sexuality, like gender, is also on a spectrum then it stands to reason that some people will move in and out of their sexual attractions and may like to seek help during this process. Individuals should not be prevented from seeking their own wellbeing or from receiving professional help for a condition he/she finds distressing. Whether or not it was the intention of the proposed bill, it effectively outlaws traditional medical practice for children who are confused about their gender, labelling it as 'conversion therapy' leaving only one approach for medical practitioners when treating patients who are experiencing gender dysphoria. This in turn creates a massive problem for Qld Health Service Providers who are concerned about the dangers of some treatments of gender dysphoria in children and adolescents – ie puberty-blocking drugs, sex hormones and surgery. These interventions have long-term consequences and are often permanent, with adverse effects on the individual.

Children and adolescents may temporarily have thoughts of wishing they were a different gender to their birth gender for many different reasons, including social contagion and sexual abuse. The Australian Christian Lobby maintains that proper psychiatric assessment and treatment to assist children to settle to their natal sex is not 'conversion therapy', and counsellors, psychiatrists and doctors using conventional clinical methods of diagnosis and treatment for patients in regards to sexual orientation or gender identity, should not be at risk of criminal prosecution or deregistration.