



27th September 2021

The Hon. Sarah Mitchell MLC

Minister for Education and Early Childhood Learning

Parliament House

Macquarie Street

SYDNEY NSW 2000

CC The Hon. Gladys Berejiklian, MP, Premier

The Hon. Brad Hazzard, MP, Minister for Health and Medical Research

The Hon. Bronnie Taylor, MLC, Minister for Mental Health, Regional Youth and Women

Ms Prue Car, MP, Shadow Minister for Education and Early Childhood Learning

Mr Ryan Park, MP, Shadow Minister for Health and Mental Health

Dear Minister Mitchell,

We, the health bodies, organisations and leaders of Australia, write to you expressing opposition to One Nation's NSW Education Legislation Amendment (Parental Rights) Bill 2020. **We urge you to oppose the Education Legislation Amendment (Parental Rights) Bill 2020, and reject attempts to remove or re-purpose Legal Issues Bulletin 55.**

Being transgender or gender diverse (henceforth 'trans') is normal, healthy, and representative of the diversity in human gender [1]. This is reflected across diverse Australian communities, with Sistergirls and

Brotherboys (trans Aboriginal and Torres Strait Islander individuals) contributing to the richness of First Nations culture [2].

Although many trans people live healthy and happy lives, a disproportionate number experience unacceptable health inequities compared to the broader population [3]. Many of these health inequities are associated with high levels of overt and implicit discrimination against trans communities [4]. Societal stigma, exclusionary language, structural violence and barriers to gender affirmation perpetuate this discrimination and increase the risk of poorer health outcomes in trans children, adolescents and adults [3,6,7,8,9]. In a 2021 study, 56% of trans individuals reported experiencing verbal harassment because of their gender or sexuality in the last 12 months [4]. Fear of, or actual, discrimination by institutions such as schools, contribute negatively to the wellbeing of this community [6,10].

The health and wellbeing of trans individuals should be a priority of the institutions in which trans people live, work and learn, in part due to the health inequities experienced by trans people. Research into the LGBTQIA+ community has shown that, compared to the general population, a disproportionate number of LGBTQIA+ Australians are affected by mental health conditions, including self-harm and suicidal behaviours [3]. Disaggregation of this data has demonstrated that trans people are at even greater risk. The likelihood of experiencing depression is 7 times greater for trans people than the general population, and 9 out of 10 trans people reporting having seriously considered suicide in the previous 12 months [3]. This increased risk is not inherent to being trans, but is instead the result of the exposure to and accumulation of negative experiences, including rejection, societal stigma, discrimination, and abuse [11]. This contributes to high levels of psychological distress in this population, which is a significant risk factor for developing poor mental health and suicidality [11].

The Education Legislation Amendment (Parental Rights) Bill 2020 and some findings of Report 44 of the Legislative Council pose further risk to the health and wellbeing of trans youth (defined in the Bill as “gender fluid”), and constitute a health issue pertinent to the peak health bodies of Australia. Our concerns are outlined below.

1. **The Bill would prohibit schools from teaching that trans people exist and have always existed in all areas of society.** The Bill also describes intersex people as disordered. This is medically inaccurate and highly stigmatising [1]. Evidence-based sexual health education in schools is necessary to improve the health literacy of the Australian population and is to the benefit of all children and adolescents [12]. In Family Planning NSW’s literature review and needs assessment

survey of 1,839 young people, students indicated that information received at school was insufficient about the LGBTQIA+ community. This is reflected in comments such as “most people who don’t identify with the sex assigned to them at birth are very cruelly taunted by their peers who don’t understand them....I had to learn about my sexuality from the internet, Before then I felt like I was broken and that something was wrong with me” (female, 15 y/o, Year 10) [13]. Further, the pathologisation of trans people that the Bill infers is associated with poorer health outcomes for trans people at the individual and population level. United Nations bodies agree that this pathologisation has driven harmful behaviour such as conversion practices, involuntary treatments, criminalisation of and discrimination against LGBTQIA+ communities and individuals [14].

2. **The Bill and Report 44 Recommendation 8.11 would prohibit school counsellors from providing trans children and adolescents with confidential counselling and referral to gender affirming medical services.** Any Bill that prevents populations from accessing medical care has human rights implications. There is an obligation under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms. The right to the enjoyment of the highest attainable standard of physical and mental health is contained in Article 12(1) of the ICESCR [15]. The UN Committee on Economic Social and Cultural Rights (the Committee) has stated that the right to health is not a right for each individual to be healthy, but is a right to a system of health protection which provides equality of opportunity for people to enjoy the highest attainable level of health [16]. The Bill will reduce equity of access to health services and, as such, opposes the right to health by facilitating less access to confidential counselling and referral pathways and essential medical services for trans people.
3. **The Bill and Report 44 mandate trans children medically and surgically affirm their gender before they are able to use the gendered facilities and spaces that align with their gender identity.** Gender-affirming treatments, including puberty blockers, hormone treatments, and gender affirmation surgeries, may form part of care for trans people, but these treatments are not sought by all. The decision of whether or not to undertake medical or surgical care should be made by trans people who are supported by affirming clinicians. It should not be coerced so as to avoid exclusion by institutions such as schools. Further, access to gender affirming care in Australia is currently inadequate to meet this requirement. Only 50% of adult trans women, 50% of trans men, and 26% of non-binary people in Australia report being able to access the gender affirming care they needed [17]. Access is even poorer for trans children and adolescents [18]. This manifests in additional

health-related concerns for intersectional populations. For example Sistergirls and Brotherboys may be required to move off Country to receive gender affirming care [19].

4. **The Bill prohibits school staff, including teachers and school counsellors, from affirming a trans student**, and places staff at risk of losing their job and accreditation when they support a trans student in affirming their identity. Public acceptance of, support for, and celebration of, people who are trans, is a vital part of reducing discrimination against these communities and improving health and wellbeing.

People who are trans thrive in environments where they feel safe, affirmed, respected and understood. This must be considered when developing legislation and policy that impacts education and healthcare systems. We urge you to oppose the NSW Education Legislative Amendment (Parental Rights) Bill 2020, and reject attempts to remove or re-purpose Legal Issues Bulletin 55.

Thank you for your time and consideration.

#### **Health bodies and organisations**

Australian Medical Students' Association (AMSA)

The Royal Australian College of General Practitioners (RACGP) NSW & ACT

The College of Intensive Care Medicine of Australia and New Zealand (CICM)

The Australian College of Rural and Remote Medicine (ACRRM)

The Rural Doctors Association of Australia (RDAA)

The Australian Psychological Society (APS)

headspace National Youth Mental Health Foundation Ltd.

Orygen

The Black Dog Institute

LGBTIQ+ Health Australia

Public Health Association of Australia (PHAA)

Zero Suicide Institute of Australasia

ReachOut Australia

WayAhead - Mental Health Association NSW

Family Planning NSW

ACON

Twenty10 incorporating the Gay and Lesbian Counselling Service (GLCS) of NSW

The Australian Professional Association for Trans Health (AusPATH)

COmmunity Response to Eliminating Suicide (CORES) Australia

New South Wales Medical Students' Council (NSWMSA)

Kentish Regional Clinic Inc.

### **Health leaders**

Ms Sophie Keen, *President of the Australian Medical Students' Association (AMSA), Australian Medical Association (AMA) Federal Councillor*

Professor Pat McGorry AO MD, BS, PhD, FRCP, FRANZCP, FAA, FASSA, FAHMS, *Executive Director of Orygen, Professor of Youth Mental Health at the University of Melbourne*

Mr Jason Trethowan, *Chief Executive Officer (CEO) of headspace National Youth Mental Health Foundation Ltd.*

Professor Christopher Fairley AO MB BS, PhD, FRACP, FAFPHM, FACHSHM, FAAHMS, *President of the Australasian Chapter of Sexual Health Medicine (ACHSHM), Professor of Public Health at Monash University*

Dr Hashim Abdeen MD, *Chair of the Australian Medical Association (AMA) Council of Doctors in Training, AMA Federal Councillor*

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