



Submission on the Pae Ora (Healthy Futures) Bill
To the Pae Ora legislation Committee
09/12/2021

This is a submission from Gender Minorities Aotearoa.

Gender Minorities Aotearoa is a national organisation for transgender, intersex, and irawhiti takatāpui people in New Zealand. We operate within the Te Pae Māhutonga kaupapa Māori public health framework, and The Ottawa Charter (1986). We carry out research and develop transgender resources, which are accessed over 118,000 times every year. We also provide a range of services, including a one-to-one peer support service which is accessed over 1,300 times every year. This service includes assistance with health navigation, human rights, and discrimination. We have also trained over 500 healthcare providers in 2021.

We can be contacted at:

Gender Minorities Aotearoa
130 Riddiford Street
Newtown
Wellington
6021
Phone: 04 385 0611
Mobile: 020 404 92568
Email: contact@genderminorities.com
Web: genderminorities.com

We agree with and support the intent of this Bill. However, we feel that amendments are needed and that transgender people, as a population facing severe health inequities and unique health needs, should be named as a priority population in order to fully achieve the purpose of the Bill. These inequities particularly affect irawhiti Māori, who are marginalised within the healthcare system as Māori and as transgender people.

Transgender Healthcare

The Ministry of Health¹ and World Health Organisation² recognise social determinants of health as the most significant factor contributing to the health outcomes faced by particular populations. Māori, Pacific peoples, and disabled people are all groups who face discrimination across all areas of life, which is why they are priority populations in the new health system. In addition to this, disabled people have unique healthcare needs. Transgender people also experience extensive discrimination: the median income for transgender people is half that of the general population; they are more than twice as likely to experience discrimination than the general population; one in five transgender people experience homelessness; transgender people experience high or very high psychological distress at nine times the rate of the general population.³ For Māori, Pacific peoples, and disabled transgender people, the disparities with the general population are notably higher. For example, one in four non-Pākehā transgender people have been homeless, and 60% of disabled transgender people have experienced discrimination in the past year.⁴

Transgender people also have a unique relationship with the healthcare system, resulting in a considerable number of unmet specific needs. The World Professional Association for Transgender Health is clear that gender affirming healthcare is a medical necessity.⁵ Despite this, national data shows that the healthcare system has been unable to meet the needs of the transgender population. The 2019 Counting Ourselves survey asked transgender people throughout Aotearoa about their access to various gender affirming healthcare treatments, including: hormone replacement therapy, mastectomies/chest reconstruction, breast augmentation, permanent hair removal, mental health support, facial feminisation, voice therapy or surgery, orchiectomies, hysterectomies/oophorectomies and genital reconstruction surgeries.⁶ In all cases, there were high rates of unmet need (19-48%), and the recurring reasons for the unmet needs were cost, and a lack of clarity about the healthcare pathways available for accessing treatment.⁷

Tan et al. in their study on the mental health of transgender New Zealanders conclude that:

“Transgender people have greater healthcare needs due to gender minority stress experiences and their need for gender-affirming medical interventions, and yet our findings suggest that they experience inequities and gaps in accessing both gender-affirming and mental health services. It is very concerning that healthcare

¹ National Advisory Committee on Health and Disability. The Social, Cultural and Economic Determinants of Health in New Zealand: Action to Improve Health (Wellington, 1998).

² World Health Organisation website, retrieved 06/12/21 from https://www.who.int/health-topics/social-determinants-of-health#tab=tab_1

³ J Veale et al. Counting Ourselves: The health and wellbeing of trans and non-binary people in Aotearoa New Zealand (Hamilton, 2019) p. 86, 68, 87, 45

⁴ J Veale et al. Counting Ourselves: The health and wellbeing of trans and non-binary people in Aotearoa New Zealand (Hamilton, 2019) p. 87, 68

⁵ World Professional Association for Transgender Health: Standards of Care for the Health of Transexual, Transgender, and Gender Non-Conforming People version 7 (2012) pp. 3-5

⁶ J Veale et al. Counting Ourselves: The health and wellbeing of trans and non-binary people in Aotearoa New Zealand (Hamilton, 2019) pp. 12-33

⁷ J Veale et al. Counting Ourselves: The health and wellbeing of trans and non-binary people in Aotearoa New Zealand (Hamilton, 2019) pp. 12-33

services, which should be supporting transgender people during some of the most difficult times of their lives, may present obstacles to accessing medically necessary healthcare, may exacerbate mental health symptoms through gender minority stress and pathologisation models, or may be avoided for fear of unhelpful and non-inclusive treatments.⁸⁹

Other research highlights harmful trends in the provision of gender affirming healthcare, demonstrating a consistent tendency for healthcare practitioners to employ an outdated pathologising model, where patients were expected to prove that they are 'trans enough' to access treatment, and transgender patients feel pressured to fit into a binary idea of gender to receive healthcare.⁹ These trends are at odds with the Health and Disability Act, which requires a healthcare code of rights that guarantees healthcare services to provide treatment of an adequate standard, and "in a manner which respects the dignity and independence of the individual."¹⁰ Further, it is more specifically a violation of the current Code of Health and Disability Rights, which specifies assumed competence as a foundational part of informed consent in healthcare.¹¹ This reveals a systemic inconsistency between transgender people's rights within healthcare, and the standard of care provided in Aotearoa. The Human Rights Commission's Prism Report highlights unmet healthcare needs as a critical human rights issue faced by Rainbow New Zealanders, and commented at length about the high rates of unmet need for gender affirming healthcare.¹²

The recent bill to ban conversion practices makes exceptions for healthcare practitioners, despite the many transgender people and organisations (including Gender Minorities Aotearoa¹³ and the Professional Association for Transgender Healthcare Aotearoa¹⁴) who submitted that transgender people often experience conversion practices in healthcare settings so that legal exceptions for healthcare providers leaves them vulnerable to those practices. Research from New Zealand has connected these experiences of conversion practices in healthcare settings

⁸ K K H Tan, J M Schmidt, S J Ellis, J F Veale and J Byrne. "It's how the world around you treats you for being trans": Mental health and wellbeing of transgender people in Aotearoa New Zealand. (Hamilton, 2021). Published in Psychology and Sexuality

⁹ G. Fraser, A. Brady & M. S. Wilson. "What if I'm not trans enough?": Transgender young adults' experiences of gender-affirming healthcare readiness assessments in Aotearoa New Zealand, International Journal of Transgender Health (2021) pp.6-9

¹⁰ Health and Disability Commissioner Act 1994

<https://www.legislation.govt.nz/act/public/1994/0088/latest/whole.html#DLM333934> Section 20

¹¹ Health and Disability Commissioner. Code of Health and Disability Rights. Retrieved 8/12/21 from <https://www.hdc.org.nz/your-rights/about-the-code/code-of-health-and-disability-services-consumers-rights/> Right 7 (2)

¹² New Zealand Human Rights Commission. Prism: Human Rights Issues Relating to Sexual Orientation, Gender Identity and Expression, and Sex Characteristics (SOGIESC) in Aotearoa New Zealand - A report with recommendations. (Wellington, 2020) pp. 43-45

¹³ Gender Minorities Aotearoa. Submission on the Conversion Practices Legislation (2021). retrieved 06/12/21 from

https://www.parliament.nz/resource/en-NZ/53SCJU_EVI_113397_JU15851/8b2c08bd73c63ce0a4218c2c56f889d7fa1c6578

¹⁴ Professional Association for Transgender Health Aotearoa. Submission to the Justice Committee on the Conversion Practices Bill. (2021) pp. 14-17. retrieved 06/12/21 from

https://www.parliament.nz/resource/en-NZ/53SCJU_EVI_113397_JU19788/ff3b8b1c921a0f094ce4b847dcdecea18d21cc06

with higher levels of psychological distress and discrimination.¹⁵ The disparities faced by transgender people in the healthcare system are clear and well-documented, yet still transgender people are overlooked in the Government's Health and Disability System Review.¹⁶

At the highest level, transgender healthcare is invisible in the government's health system review, and neglected in legislation. At an intermediate level, transgender people face barriers around accessing healthcare due to unclear or non-existent pathways, and a lack of funding for necessary treatments. At the ground level, transgender people regularly encounter healthcare providers who do not understand their needs, and who subject them to pathologising frameworks which violate their rights. Leadership is urgently needed to address these barriers and the adverse health outcomes they cause.

Recommendation:

Transgender people should be named as a priority population for Health NZ. This should be reflected by the inclusion of a transgender healthcare strategy as part of the Minister's responsibilities in Section 10.1(a) and 29.1(b), and by adding a new Section after Section 40 which outlines the contents and process of a transgender health strategy in a similar manner as the Hauora Māori, Pacific peoples and disability health strategies.

This bill should include explicit reference to the Health and Disability Commissioner Act 1994. The Code of Rights within healthcare settings set out by the Health and Disability Commissioner should be added to the objectives in Sections 12 and 18, as well as the role of the Minister of Health in creating Government Policy Statements for all priority populations.

¹⁵ J F Veale, K K H Tan and J Byrne. Gender Identity Change Efforts Faced by Trans and Non-binary People in New Zealand: Associations with Demographics, Family Rejection, Internalized Transphobia, and Mental Health. (Hamilton, 2021). Published in American Psychological Association in Psychology of Sexual Orientation and Gender Diversity

¹⁶ Health and Disability System Review. Health and Disability System Review Interim Report Hauora Manaaki ki Aotearoa Whānau - Pūrongo mō Tēnei Wā (Wellington, 2019)