



14 September 2021

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Governance and Administration Committee
Select Committee Services
Parliament Buildings
WELLINGTON 6610

Submitted via online portal

Tēnā koutou katoa

Inquiry into Supplementary Order Paper 59 on the Births, Deaths, Marriages and Relationships Registration Bill

Thank you for giving The Royal New Zealand College of General Practitioners the opportunity to comment on the Inquiry into Supplementary Order Paper (SOP) 59 on the Births, Deaths, Marriages and Relationships Registration Bill (the Bill).

The Royal New Zealand College of General Practitioners is the largest medical college in New Zealand. Our membership of over 5,600 general practitioners comprises almost 40 percent of New Zealand's specialist medical workforce. Our kaupapa is to set and maintain education and quality standards for general practice, and to support our members to provide competent and equitable patient care.

Submission

The law already allows changes to be made to a birth certificate, and other official documents

The College is aware of the view expressed by some members of the public that birth certificates are a permanent record and should not be altered. We note that there is an existing process for people to change their sex on their birth certificate, requiring a Family Court process which requires proof of having undergone medical treatment. The changes proposed in the SOP would enable people to self-identify their sex on their birth certificate by making a statutory declaration. This is a simple, administrative process clearly aligned to the current processes for changing sex on drivers' licenses and passports. We also note that these processes allow for the making of regulations to enable the noting of a gender outside of the previously sanctioned Male and Female, and we support takatāpui, trans and non-binary people having this option for their birth certificate as well.

Discrimination is unacceptable

The RNZCGP holds the view that no person should be discriminated against based on sexuality, gender, gender identity or gender expression, and we affirm that all sexualities, genders, and gender expressions are a normal part of our diverse society in Aotearoa. Our position is supported by the NZ Bill of Rights Act, and the NZ Human Rights Act reflects commitments that our country has made in supporting the Universal Declaration of Human Rights, and subsequent UN human rights treaties.

The law should not place unnecessary barriers

Transgender individuals currently face immense hurdles to access treatment, access support and have their gender recognised. The significant financial and bureaucratic barriers involved in having the Family Court allow a change of gender on birth certificates is another inequity that transgender, gender diverse and intersex individuals face. In addition, the Family Court process can be very drawn out and people's experience is dehumanising and undignified.

The current law is not aligned to current understandings of gender

The current requirement to have proof of having undergone medical treatment is archaic, doesn't align with current understandings of gender as a social rather than a purely biological construct, and fails to recognise that transgender individuals may not be willing or able to undergo medical transition, and that a lack of medical intervention doesn't invalidate their gender identity. We support the process being made equivalent to the current process for changing gender on other documents such as passports and drivers' licences.

The current law contributes to the mental health disparities of transgender people

Trans and gender diverse people have the same inherent potential to flourish and thrive as other people, but currently experience increased risk of harm because of discrimination, social exclusion, bullying and assault, as well as institutional barriers such as difficulties accessing healthcare, bathrooms, and appropriate legal identification. It is becoming increasingly accepted that it is the additive effects of minority stress that results in mental health difficulties.¹ The proposed law will help address the need for appropriate legal identification and will contribute to improved mental health outcomes for transgender people.

The proposed law does not meet the needs of non-citizens

The College considers that the Bill as it stands removes the right of transgender and intersex New Zealand permanent residents born overseas to an official document that accurately recognises their affirmed sex. The current provision is that the first step in the Family Court process (obtaining a Declaration as to Sex) is available to permanent residents. With the Family Court process no longer in place, for a particular group of people, this Bill removes an existing right. Neither the current nor the proposed process meets the needs of migrants, asylum seekers and Convention refugees on temporary visas. Given that one of the possible reasons for seeking asylum or refugee status might be that the applicant is subject to significant human rights breaches in their own country based on their sexual orientation, gender identity or expression, or their sex characteristics, we consider that this approach is out of line with our current approach to human rights in New Zealand.

Conclusion

The College supports the passage of the Bill and ask the Select Committee to make provision to ensure that a process is available to meet the needs of those born overseas requiring an official document that accurately recognises their affirmed sex.

Please don't hesitate to contact the College if you have any questions, or seek additional information at policy@rnzcgp.org.nz

Nāku noa, nā



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¹ Oliphant J, Veale J, Macdonald J, Carroll R, Johnson R, Harte M, Stephenson C, Bullock J. Guidelines for gender affirming healthcare for gender diverse and transgender children, young people and adults in Aotearoa, New Zealand. Transgender Health Research Lab, University of Waikato, 2018.
<https://researchcommons.waikato.ac.nz/handle/10289/12160> accessed 13/9/21