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4. How clear is the Act's definition of what is and what is not a change or suppression practice? If further clarity is needed, what forms of clarification would be most helpful?

The definition of prohibited conduct in the Change or Suppression (Conversion) Practices Prohibition Act 2021 lacks clarity regarding exploratory or Socratic questioning, potentially inhibiting healthcare professionals from engaging in thorough diagnostic assessments. This vagueness may prevent them from exploring alternative possibilities, such as same-sex attraction in individuals presenting with symptoms that could also be indicative of autism spectrum disorder, thereby potentially leading to misdiagnosis or delayed diagnosis. The Act's carve-out for practices that encourage or promote gender transition raises concerns, as it explicitly protects affirmation while leaving non-affirmation practices exposed to liability, creating a power imbalance in the therapeutic relationship.

5. How clear is the exclusion for health service providers? If further clarity is needed, how could this best be achieved?

The inclusion of psychotherapy as a prohibited suppression activity, unless specifically exempted, creates a chilling effect on clinical practice, as practitioners may be deterred from providing evidence-based treatments due to fear of prosecution, despite the exemption provision.

6. Is greater clarity needed about how people of faith can hold and express their beliefs to support clear understanding and compliance with the Act? What forms of clarification would be most helpful?

The Change or Suppression (Conversion) Practices Prohibition Act 2021 fails to account for individuals who identify as lesbian, gay, or bisexual and wish to explore their faith in a way that aligns with their same-sex attraction, thereby excluding a legitimate and consensual expression of their autonomy. This omission constitutes an extraordinary intrusion into both the freedom of religion and individual autonomy, as it would render a pastor or faith-based counsellor liable under the Act for simply responding to a person's voluntary request for support.

7. How effective are VEOHRC's awareness and education materials on change or suppression practices? What improvements, if any, could help strengthen community understanding and compliance?

The consultation materials provided by the Victorian Law Reform Commission are fundamentally flawed, as they proceed from the assumption that affirmation of gender identity is the only medically appropriate option, despite this being a contested clinical position. This assumption is not supported by the best available evidence, including the Cass Review, and as such, the consultation process is compromised and cannot produce balanced or evidence-based recommendations.

9. Are there changes that could help support VEOHRC to carry out its functions or improve the effectiveness of the civil response scheme? If so, please describe any changes.

The Victorian Equal Opportunity and Human Rights Commission (VEOHRC) should be required to consider current best-evidence guidance when developing materials under the Change or Suppression (Conversion) Practices Prohibition Act 2021. This provision is essential to ensure that

the materials produced are accurate, reliable, and do not cause harm to vulnerable individuals. Materials that uncritically adopt affirmation of gender identity as the only medically appropriate option risk causing serious harm to vulnerable young people, and should not be permitted to stand as authoritative guidance under the Act. The Act should require VEOHRC to engage with other up-to-date systematic reviews of the evidence on gender-affirming care, to ensure that the materials produced are balanced and informed by the latest research. The findings of the Cass Review, the most comprehensive independent review of gender medicine for children and young people ever conducted, should also be taken into account by VEOHRC when developing materials under the Act.

13. Should a civil cause of action be introduced under the Act? What distinct purpose would it serve compared to existing pathways?

The definition of "change or suppression practice" in the Act is overly broad, capturing not only coercive or abusive conduct, but also the mere expression of sincerely held views in everyday conversations, sermons, therapy sessions, or public forums. This provision has the potential to chill free speech and stifle open discussion on matters of conscience and belief. The imposition of a private right of action through civil tribunals further exacerbates this concern, as it enables any individual who feels aggrieved to bring a claim, regardless of the merits. Unlike a criminal prosecution, which requires a higher standard of proof and a more rigorous test of guilt, civil claims can be brought with relative ease, and the costs of defending such a claim will fall on the respondent, regardless of the outcome. This creates a significant disincentive to engage in free and open discussion, as individuals and organizations may choose to self-censor rather than risk incurring substantial costs and reputational damage.

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