



RELIGIOUS DISCRIMINATION BILL 2019 AND HEALTH CARE

The Federal Government has released its draft Religious Discrimination Bill for public comment. The Bill introduces special rules allowing health professionals to refuse to provide health services on religious grounds. These unprecedented rules will have significant impacts on access to health care for millions of Australians, including LGBTIQ+ people, women and people with disabilities.

WHAT DOES THE RELIGIOUS DISCRIMINATION BILL 2019 DO?

The Religious Discrimination Bill 2019 will prohibit discrimination on the basis of religious belief or activity (including having no religious belief or refusing to engage in religious activity) in certain areas of public life, such as employment, education, goods, services and facilities, accommodation, sport and clubs.

So, for example, it will provide protection in certain circumstances to someone who is:

- treated unfairly at work, or turned away from a restaurant or shop, because they have or don't have a religious belief
- unreasonably prevented from wearing religious dress as part of a work or school uniform.

But the problem is that the Bill will introduce special rules allowing health professionals to refuse to provide health services on religious grounds. It will make it harder for employers and professional health bodies to require health professionals to treat all patients, regardless of a health professional's personal religious views.

CONSCIENTIOUS OBJECTION

Sections 8(5) and 8(6) of the Bill start from the position that a health professional should be allowed to refuse a wide range of health services based on a religious objection.

Where a State or Territory law already regulates conscientious objection in healthcare, those laws continue to apply (s 8(5)). So, for example, where States and Territories have laws on conscientious objection relating to abortion or euthanasia, those laws must be followed (including any requirement to refer a patient to another doctor or to treat a patient in life threatening situations).

But the majority of health services do not have State or Territory conscientious objection laws. In these cases, employers and professional health bodies will only be able to restrict or prevent conscientious objection by a health professional if it causes an unjustified adverse impact on the service or the health of the patient (s 8(6)).

Health services delivered by doctors, dentists, nurses, midwives, pharmacists, physiotherapists, podiatrists, psychologists, occupational therapists, optometrists and Aboriginal and Torres Strait Islander health practitioners will all be covered by this rule.

Patient health needs must not be compromised. Instead, this unprecedented rule will prioritise the personal religious views of a health professional. Employers and professional bodies will be forced to defend policies and standards that ensure that all patients are treated according to their health needs.

Unlike State laws that regulate abortion, it is unclear whether the following types of policies or standards will be unlawful:

- an obligation to refer a patient if a practitioner objects to treating them on religious grounds
- an obligation to treat a patient if the patient's health needs cannot be met by another practitioner, whether because of delay, distance, cost or other available alternatives.



WHAT WILL BE THE IMPACT OF THE RELIGIOUS DISCRIMINATION BILL ON HEALTH CARE?

Because of the unprecedented and broad proposed rules on conscientious objection, Australians will find it harder to access healthcare from health professionals, wherever they live.

This includes anyone who may be the subject of unfavourable religious views, such as:

- LGBTIQ+ people seeking access to healthcare services, including sexual health, reproductive or transgender health services
- women and girls seeking access to reproductive services
- anyone seeking access to contraception
- divorced people, unmarried couples, or single parents.

Patients should not live in the fear of their healthcare being denied or delayed because of the religious views of their health professional.

EXAMPLE SCENARIOS

Scenario 1: A trans woman has a prescription for hormones. Her local pharmacist refuses to dispense the medication. The pharmacist believes ‘God made humanity male and female, and, in his creative purposes, biological (bodily) sex determines gender’, and her faith calls on her to ‘differentiate between compassion for the person and understanding the distress of their situation/condition and agreeing with and validating a treatment protocol to transition’¹. Under the proposed laws, the pharmacy could face a complaint for religious discrimination if it requires all its employees to dispense medication without discrimination.

Scenario 2: A gay man is concerned that a condom broke during a sexual encounter. He asks his doctor to prescribe him post-exposure prophylaxis

(PEP) within the 72-hour window. His doctor refuses because his religious belief forbids sexual activity outside of marriage. Under the proposed laws, it will be too late for the clinic to debate whether health needs should trump a doctor’s personal religious views.

Scenario 3: A woman has been admitted to hospital after a sexual assault. She asks a nurse where she can get the morning after pill. The nurse refuses to answer because her Catholic faith forbids contraception. Under the proposed laws, the right to healthcare without judgement will be compromised.

THERE’S A BETTER WAY FORWARD

Sections 8(5) and (6) should be removed. In the rare instances where States and Territories have allowed conscientious objection, they have done so carefully to ensure patient care is not compromised. These clauses don’t achieve that balance. Without these clauses, the Bill will still allow an appropriate accommodation of personal religious views without compromising patient care.

WHAT YOU CAN DO

1. Make a submission by **2 October 2019** to the consultation on the Religious Discrimination Bill 2019 by sending it to ForConsultation@ag.gov.au. See more information here: www.ag.gov.au/Consultations/Pages/religious-freedom-bills.aspx.
2. Write to your local MP voicing your concerns on the Religious Discrimination Bill 2019.

Have you been denied treatment in healthcare based on a religious objection? Have you been discriminated against in healthcare?

Write to us and tell us your story here:
equalityaustralia.org.au/contact-us/

¹ *Gender Identity Initial Principles of Engagement* (as adopted by the Anglican Synod on 23 October 2018, Resolution No 49/18), paras. 9.1.1(d) and 9.1.5(d).