Matters Arising from Questions put to the IFTCC Oral Presentation on Thursday 23rd September 2021

Dear Justice Committee,

Thank you for the opportunity to present an oral submission on behalf of those in New Zealand connected with the International Federation for Therapeutic and Counselling Choice. We are grateful to hear your questions on contemporary professional therapy that is open to a client's goal of change in sexual attraction feelings or behaviour or incongruent gender feelings or expressions. We greatly appreciate the generous time you gave us, and we remind of the IFTCC Written Submission to the Justice Select Committee.

What we learned from our interaction and watching some subsequent ones was that the committee members were of the view that what we do—helping someone decrease or resolve gender dysphoria or unwanted same sex attraction or behaviour that was caused by trauma or psychiatric disorders or conditions—will be legal under the ban because we do not use aversive or coercive methods and the law will allow therapists to do therapy within the scope of practice as defined by the professional organisations in New Zealand.

We would like to address this interpretation of the bill as we understand it, in part by referring to the case of Erin Brewer who was the second person after us to present to the Justice Committee. Erin was raped as a young girl and thereafter believed she was a boy. She said she felt that if she was a boy, that would not happen to her again. She said she truly believed she was a boy. Her school psychologist was interested in what would lead her to feel she was a boy and explored with Erin the causes of her transgender identity. As a result of discovering the trauma and treating it and helping Erin feel safe and positive about being a girl, Erin came to embrace her identity as a girl, and she is very happy about this outcome. She is very concerned that the Conversion Practices Prohibition Legislation Bill would forbid the kind of help she received.

We see the following problems with an interpretation that the therapy Erin received will remain legal in New Zealand because the therapy is not aversive or coercive and will be within the scope of practice of the professional organisations in New Zealand.

(a) The bill does not define "conversion practices" as simply aversive or coercive methods. It defines conversion practices as "a broad range of practices" that have a particular therapy goal, namely a client's goal to change or reduce ("suppress") a person's same-sex attraction or behaviour or incongruent gender identity or expression. What is banned is a *therapy goal*, effectively regardless of what methods are used, even standard therapies. The bill identifies no exceptions based on therapy methods. It says, "Conversion practices encompass a broad range of practices that seek to change or suppress a person's sexual orientation, gender identity, or gender expression."

(b) It says therapy that helped Erin does not work and could cause her to experience lower self-esteem, depression, anxiety, and suicidal thoughts and attempts. Erin feels that her standard therapy to help her identify as a girl, however, actually relieved these kinds of experiences. The bill claims, "Research emphasises that conversion practices do not work and can contribute to issues such as low self-esteem, depression, anxiety, and suicidal thoughts and attempts." This claim obviously does not take into account successful standard therapy. Erin's therapy experience is erased.

(c) It says the Government's objectives in the therapy ban is **to affirm a viewpoint that "no sexual orientation or gender identity is broken and in need of fixing."** But Erin's gender identity was devastated by trauma and was in need of healing. Erin's experience is erased. This part of the bill explains **the fundamental purpose of the bill—to affirm a viewpoint.** Erin's experience threatens this viewpoint and must be erased, and the Government intends to do it.

The bill is based on an viewpoint that is not uniformly affirmed in the worldwide professional community. Even organisations that say LGBT experiences are normal do not necessarily say they are uniformly normal.

The World Professional Association for Transgender Health (WPATH) :
The "Standards of Care" says "**gender dysphoria" may be "secondary to and better accounted for by other diagnoses."**
British Psychological Society (BPS):

The "Guideline" says, "In some cases the reported **desire to change sex may be symptomatic of a psychiatric condition** for example psychosis, schizophrenia or a transient obsession such as may occur with Asperger's syndrome…." (p. 26)

American Psychiatric Association
"The American Psychiatric Association Task Force on the Treatment of Gender Identity Disorder" noted **gender**

dysphoric adolescents should be "screened for trauma as well as for any disorder (such as schizophrenia, mania, psychotic depression) that may produce gender confusion." (Byne et al., 2012)
Finland's "Recommendation"

"The first-line treatment for gender dysphoria is psychosocial support and, as necessary, **psychotherapy and treatment of possible comorbid psychiatric disorders….in adolescents, psychiatric disorders and developmental difficulties may predispose a young person to the onset of gender dysphoria."** (COHERE, 2020, chapter 7) **This is exactly what contemporary, ethical, professional therapy does that is open to a client's goal of change as was Erin's therapy and, we believe, this bill effectively criminalizes it.**

American Psychological Association's APA Handbook of Sexuality and Psychology

Childhood sexual abuse has "associative and potentially causal links" to having same sex partners for some. The *APA Handbook* said it based its conclusion on research that included a 30 year study of documented cases of childhood sexual abuse. (2014, 1, 609-610) The handbook praises the rigor of this study. Of course, not everyone who experiences same sex attraction or behaviour was sexually abused, and not everyone who was sexually abused develops same sex attraction or behaviour, and some people experience sexual abuse after they have same sex experiences. But some of our clients do feel their same sex attraction or behaviour was not biologically caused but was forced on them by childhood sexual abuse and does not represent their authentic self. They want the legal right to heal from predisposing experiences and change their sexual attraction or behaviour. This bill bans their therapy goal.

We also refer you to our written submission (attached for your convenience) that addresses research itself on the question of biological and psychological causes of sexual orientation and gender identity.

The stated purpose of the bill is to affirm a viewpoint that no sexual orientation or gender identity is broken or needs to be fixed. The meaning on the face is that predisposing trauma or psychiatric conditions, experiences like Erin's, do not exist. Finland is a pioneering nation in treatment of gender dysphoria, is one of the nations with the longest experience with it, and has done research in Finland. Finland recommends treating gender dysphoria by treating potentially predisposing psychiatric conditions. We believe organisations that acknowledge trauma or psychiatric conditions can predispose to sexual attraction or gender diversity but so far still ban care to reduce or change these traits by treating predisposing conditions, in contrast to Finland's recommendation in the case of gender dysphoria, are presently in a position of internal viewpoint contradiction. There is not at this time sufficient professional consensus to support the stated fundamental purpose of this bill, to affirm a viewpoint.

(d) The members of the Justice Committee said they believed someone like Erin would be able to get the help she got under this bill, because professionals would be allowed to practice under the scope of practice of the professional organisations.

The problem we see in this interpretation of the bill is that professional organisations in New Zealand, influenced by professionals of one viewpoint—namely that no sexual orientation or gender identity is broken or needs to be fixed, that is, that what happened to Erin does not exist, do not accept her therapy goal. Or do the professional organisations acknowledge this is possible, as do the World Professional Association of Transgender Health (WPATH), American Psychiatric Association task force, British Psychological Society, and Finland's Recommendation for treating gender dysphoria by treating predisposing psychiatric conditions? But even if they do accept this therapy goal by using standard therapies, the bill as written does not.

(e) As a result of banning therapy, people like former-transgender Erin Brewster will not be able to get the help that enabled her to embrace her sex. Under the ban, neither Erin nor her school psychologist could have a therapy goal of helping her become able to identify as a girl. The therapy goal may have initially been her therapist's before Erin had sufficient understanding.

(f) Criminalizing parents would add further harm. In fact, Erin's parents could not say, "Erin, we think something happened to you and you need therapy. We don't think you should mess up your endocrine and reproductive systems, let someone sterilize you, and become a medical patient for the rest of your life. At least, we think you should wait until you are an adult to make such a drastic decision." If Erin herself wanted to have a conversation with her mother or father, "I think I need therapy to get over feeling I am a boy, and I don't want those medical treatments. What do you think, Mom/Dad? Would you help me?" her parents could not reply that they agree with her or will help her as she desires. They would be fined or incarcerated. A child in Erin's position, knowing she would lose her parent(s) to incarceration or they would be punished, would be afraid to talk to her parents openly.

If you financially impair her parents or incarcerate one or both of her parents, you now subject her to the adverse childhood experience of loss of her parent(s) through incarceration, known to place a child at risk of psychological problems. Incarceration of a family income earner can ruin the family financially and potentially quickly. Some families live month to month on their incomes. She could be plunged into poverty.

Actually, there is highly regarded longitudinal research conducted in New Zealand by Dr. David Fergusson, who is himself highly regarded in New Zealand, that found 12% of children with same-sex sexuality had experienced parent incarceration, hence this is one associative and potentially causal factor in the development of same sex sexuality. (Fergusson et al., 1999) Parent incarceration is also associated with incongruent gender identity in adolescents. (Baams, 2018)

Unless the law is amended to ban only aversive methods or coercion and directly states it allows change-exploring therapy that evaluates for and treats potentially predisposing trauma or psychiatric conditions, therapists will not provide therapy that Erin Brewster needed. Under threat of fine or incarceration, effectively therapists will not risk how the law may be interpreted in the near or eventual future. To our knowledge, this has been the result of therapy bans wherever they have been passed.

In order for Erin's therapy to remain legal in New Zealand, the bill would need to be amended to state specifically that therapy is permitted to decrease or change same sex attraction or behaviour or incongruent gender identity or expression that is conducted by evaluating for and treating potentially predisposing trauma or psychiatric or psychological conditions or by other well established therapy practices, although delineation of therapy methods could counterproductively forbid development in advances of therapy methods for this population. The foundational intention of the bill to affirm a viewpoint, that sexual orientation or gender identity is never broken or needs to be fixed, would need to be amended. Regarding this amendment, we suspect considerable dialogue over time would be needed for professionals of differing viewpoints to come to agreeable language, and this is unlikely to be achieved during the present legislative season. The one area of agreement might be for a generic bill that says aversive or coercive therapy methods should not be used, regardless of a topic or goal of therapy, but we believe current ethical standards and laws already cover this, and enforcement is best conducted by professional bodies that have the necessary breadth of knowledge and experience, rather than law enforcement agents or courts. We believe the best course at this time is not to ban therapy.

Respectfully,
Laura Haynes, PhD General Board Member and Member of the Science and Research Council, Country Representative for the USA
Michael Davidson, PhD, IFTCC Chairman.
IFTCC Written Submission to the New Zealand Justice Select Committee

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