2 July 2026

Social Services and Community Committee
New Zealand Parliament
Online submission

Tēnā koutou

Legislation (Definitions of Woman and Man) Amendment Bill

Te Whare Tohu o Te Hau Whakaora | The Australian and New Zealand College of Anaesthetists (ANZCA), which includes the Faculty of Pain Medicine (FPM) and Chapter of Perioperative Medicine, thanks you for the opportunity to provide feedback on the Legislation (Definitions of Woman and Man) Amendment Bill (the bill). ANZCA is the professional organisation responsible for postgraduate training programs of anaesthetists and specialist pain medicine physicians, and for setting the standards of clinical practice throughout Australia and Aotearoa New Zealand. Our collective membership comprises around10,000 fellows and trainees in anaesthesia and pain medicine, around 1300 of whom work in Aotearoa New Zealand.

The college has consulted with our national committees (National Committee NZ and FPM NZ), education and policy advisors in Australia and Aotearoa, and members of ANZCA's Gender Equity subcommittee and Diversity Equity and Inclusion Project group. Their strong and consistent feedback informs this submission. ANZCA is a member of the Council of Medical Colleges and supports their submission. (add link)

Overview

ANZCA **does not** support the bill. While biological sex is critically important to health care and research, the bill's limited definitions, restricted to woman and man as 'biological adults', serve no useful purpose. The bill fundamentally conflicts with established law and science by seeking to impose an exclusively dimorphic definition of sex, which is inaccurate and potentially harmful.

The assertion that it will only apply "in contexts where the terms woman and man are used, unless explicitly stated otherwise in specific legislation" is disingenuous, since there is currently no legislation which refers to intersex or transgender people. Conversely, the New Zealand Bill of Rights Act 1990 and the United Nations Declaration of Human Rights 1948 which New Zealand has ratified, are both predicated on ensuring *all people* are treated equally before the law and protected from discrimination. The bill undermines both precepts, effectively discriminating against a minority group of people by failing to acknowledge their existence. The likely consequence will be to further marginalise and increase harm to this small and vulnerable group of people, rather than removing barriers to diversity and inclusion so that all New Zealanders can participate and contribute to society to their full potential.

As anaesthetists and specialist pain medicine physicians, ANZCA's New Zealand members are required to meet the standards set by the Medical Council New Zealand's documents on Good Medical Practice[1] and Cultural Safety[2], including treating patients equitably, with respect, without

[1] Medical Council New Zealand. Good Medical Practice. Wellington: MCNZ: 2021.Available from: https://www.mcnz.org.nz/assets/standards/b3ad8bfba4/Good-Medical-Practice.pdf
[2] MCNZ. Cultural Safety Statement. Wellington. MCNZ: 2019. Available from: https://www.mcnz.org.nz/assets/standards/b71d139dca/Statement-on-cultural-safety.pdf

discrimination, and in line with best evidence-based practice. An understanding of sex and gender is essential to safe and appropriate care in many areas of practice. This requires a health system that supports clinicians with accurate data, and a culture of inclusion and open communication, rather than one that may discourage patients from disclosing clinically relevant information.

Health outcomes have substantially improved in Aotearoa over the past century, but not equally. Evidence shows that being inclusive and valuing diversity is key to making healthcare fairer and more cost-effective. Bills of this nature, based on faulty evidence, maintain cultural attitudes that are inimical to progressing the health of individuals and society. We draw the committee's attention to ANZCA's Gender Equity Statement[3] which affirms the College's commitment to equity across all genders, explicitly including transgender people and people of non-binary gender and **recommends** that you do not proceed with the bill.

Discussion

Conflicts with Existing Law

The bill contradicts established New Zealand laws that allow for gender self-identification. The Births, Deaths, Marriages, and Relationships Registration Act 2021 allows New Zealanders to update the sex marker on their birth certificates via a self-identification process. This new bill would effectively render those updated legal documents meaningless in any context governed by broader legislation.

The bill defines a man/woman as an adult human biological male/female but does not explicitly define what age constitutes an "adult" within the text. The Age of Majority Act 1970 provides that, unless another statute specifies otherwise, a person reaches the age of majority at 20 years. This raises questions about the legal status of young people aged 16–19 years, who may not fit neatly within the definitions of either "child" or "adult" used in specific healthcare legislation. Where healthcare statutes rely on age-based definitions without clearly addressing this group, there is a risk that 16–19-year-olds could fall outside the intended legal framework, creating uncertainty about their rights, protections, and access to services.

Moreover, current law already allows sex-segregated spaces (like toilets or changing rooms) and sex-differentiated sports under specific exemptions in the Human Rights Act 1990. Passing the bill's blanket definition may create unnecessary hurdles for employers, schools, and health boards, without adding practical safety or clarity.

Scientific and Clinical Ambiguity

The bill conflates the terms sex and gender. "Man" and "woman" are gender identities - social and personal constructs, not biological definitions of sex. Biological sex, as understood in contemporary medicine and biology, refers to a constellation of chromosomal, gonadal, hormonal, and anatomical characteristics that do not always align neatly into a binary. Contrary to widely held belief, neither chromosomes nor genitalia can be used to categorise all humans as either male or female. Sex assigned at birth is a biological determination made on the basis of observable anatomical characteristics; it is not equivalent to gender identity, and for a significant proportion of the population — including intersex people — it does not map cleanly onto a binary of male or female even at the biological level.

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[3] Australian and New Zealand College of Anaesthetists. Gender Equity Statement (Internet). ANZCA: Melbourne: 2019. Available from: https://www.anzca.edu.au/getContentAsset/e63df15e-14d3-483c-8a7f-8b3d95e65088/80feb437-d24d-46b8-a858-4a2a28b9b970/ANZCA_Gender-equity_statement.pdf?language=en

By legislating "man" and "woman" as definitions based on biological characteristics, the bill applies a gendered framing to what it purports to be a biological classification. These are not synonymous; treating them as such is scientifically inaccurate and risks enshrining a scientific misunderstanding into law.

About 1 percent of the population comprises people affected by intersex variations or differences/disorders of sex development, including conditions such as SRY gene deletions, Androgen Insensitivity Syndrome, Congenital Adrenal Hyperplasia (CAH), and Turner and Klinefelter syndromes. The bill fails to account for or protect intersex individuals, leaving their legal status highly ambiguous. Legal definitions should not be used in a way that diminishes the humanity of these individuals or excludes them from appropriate care, protections, or legal safeguards. Regardless of how they are classified under particular statutes, they remain people with healthcare needs, rights, and interests that must be recognised and protected. Any gap or ambiguity in statutory definitions should not result in them being overlooked or falling outside the intended scope of services, protections, or decision-making frameworks.

Biological sex is fundamentally important in healthcare and research, for example in:

- Healthcare and Disease Diagnosis: where biological sex is an unalterable physiological variable that heavily determines an individual's susceptibility to certain diseases (such as cardiovascular disease affecting men at younger ages) and dictates necessary preventative care.
- Pharmacology and dosing of medications: metabolic processes, liver enzymes, and receptor distributions often function differently in males and females.
- Biological and Anthropological Research: where clinical trials rely on tracking biological sex to identify hidden variables in gene expression, immune system responses, and pain tolerance (for example, women exhibit reduced sensitivity to propofol and experience more rapid emergence from general anaesthesia. Postoperatively, women experience more severe and chronic pain and demonstrate increased sensitivity to opioids.)[4]

However, the bill ignores advances in research that recognise sex and gender as existing along a continuum rather than as strictly binary categories. It serves no useful clinical purpose, but risks stifling medical advances to improve the quality and cost-effectiveness of health services and more equitable outcomes.

Impact on transgender and gender diverse communities

The college is deeply concerned about the real-world consequences of the bill for transgender and takatāpui communities in Aotearoa New Zealand. People who are transgender and gender diverse already face profound health and social inequities, including higher rates of mental ill-health, barriers to healthcare access, and experiences of discrimination and marginalisation. Legislation that legally defines gender in a way that erases or overrides a person's gender identity risks compounding these inequities significantly.

While the bill's proponents state that it does not affect how people may identify or speak about their gender, the downstream effect of providing a technical legal “definition” (however inaccurate) that courts can apply are far-reaching and difficult to predict. Legal definitions have a way of entering policy, clinical practice, and institutional decision-making in ways that directly affect the

[4] Gourier S, Léon K, Vermeersch V, Bouras M, Langeron O, Caillard A. Sex-based differences in anesthesia approaches and outcomes: A narrative review. Anaesthesia Critical Care & Pain Medicine. 2026, 45:4: 101723. https://doi.org/10.1016/j.accpm.2025.101723

lived experience of vulnerable populations. The bill will contribute to further health and social inequality in a community that is already so inequitably placed.

Violation of Te Tiriti o Waitangi

The bill fails to recognise or accommodate indigenous concepts of gender fluidity and identity, specifically erasing takatāpui and takatāpuitanga, which are considered taonga (treasures) under Te Tiriti o Waitangi.

Best practice and cultural safety | kawa whakaruruhau

For doctors, sex and gender have practical implications, include determining eligibility for screening programmes, such as cervical and prostate cancer screening, and conducting intimate examinations or procedures, such as urinary catheterisation, where patients may request that the procedure be performed by a clinician of a particular gender. The bill is likely to discourage some people from disclosing information that is clinically relevant; it is culturally unsafe.

The concept of cultural safety, first articulated by Dr Irihapeti Ramsden (Ngāi Tahu/Rangitāne), a Māori nurse and educator, has been widely adopted by health professions globally—particularly in countries with a legacy of colonialism, which has consistently left Indigenous and First Nations peoples with comparatively poorer health outcomes. It has gained traction because it offers a practical and ethical pathway toward health equity, ensuring that everyone is able to reach their full health potential. In January 2026 ANZCA launched its Diversity, equity and inclusion (DEI) Framework & Roadmap[5] which sets priority areas and actionable steps to advance inclusive, equitable, and respectful environments across all college activities.

Cultural safety also contributes to improved productivity by addressing systemic discrimination and fostering more inclusive, respectful health systems. In a world facing existential threats—from climate change to global inequities—we need the knowledge, perspectives, and contributions of all people. Embedding cultural safety is therefore not only a matter of justice, but a collective necessity for sustainable and resilient futures.

This bill risks inviting division and does nothing practical to address the very real issues of access and equity within the national health system.

Conclusion

ANZCA appreciates the opportunity to submit a response to the bill which we **oppose** because:

- It is based on scientifically unsound assumptions.
- It is inimical to best evidence-based practice and cultural safety | kawa whakaruruhau.
- It conflicts with existing law.
- It may have adverse consequences for intersex, transgender and gender diverse communities.
- It may lead to compliance hurdles for employers, schools, and other agencies.
- It undermines, by virtue of exclusion, indigenous concepts of gender fluidity and identity.
- It does not improve, but may stifle efforts to improve the quality and cost-effectiveness of health services.
- It is unnecessary, divisive and a distraction from the critical issues we face.

[5] ANZCA. Diversity, equity and inclusion Framework (Internet). ANZCA: Melbourne: 2026. Available from: https://www.anzca.edu.au/news-and-safety-alerts/new-dei-framework-launched

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Legislation should respect the dignity of all peoples. The college ANZCA recommends that the bill **does not proceed.**

Nāku noa, nā

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