Gateway Health makes this submission to the Attorney-General’s Department as part of the consultation on the three draft Bills described as the ‘Religious Freedom Bills’. The Religious Freedom Bills comprise drafts of the:

- Religious Discrimination Bill 2019 (Cth) (the Bill)
- Religious Discrimination (Consequential Amendments) Bill 2019 (Cth) (the Consequential Amendments Bill)

The Religious Discrimination Bill prohibits both direct and indirect discrimination on the ground of religious belief or activity in areas of public life covered by those other Commonwealth discrimination laws. The proposed legislation also provides for general and specific exemptions which are broadly consistent with other discrimination law.

However, Gateway Health supports the views of the Australian Human Rights Commission and Equality Australia amongst others, and is concerned that the Bill will provide protection to religious belief or activity at the expense of other rights. The consequence will be a negative impact on groups of people seeking healthcare; particularly those that may already be marginalised or face discrimination, or those who have a lack of choice in health care providers due to rurality or social/environmental disadvantage.

We feel that the proposed legislation will weaken existing protections provided under Commonwealth, State and Territory legislation, and may in fact ‘wind back the clock’ of hard-won anti-discrimination law. We call on the Australian Government to ensure that the proposed legislation does not inadvertently negatively impact members of the community who have the right to universal health care.

This extends to clients and communities that Gateway Health serves, including:

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

The proposed Bill provides too many broad protections to those of religious faith. It should be made clear that it does not override any existing protections for other groups under state laws.

We should not have one model of special protection for religious faith and a lesser model of protection for all other people.

We oppose any legislation that seeks to prioritise one human right, such as the right to practice one’s religion, over the
universal human right to healthcare of another. It is noteworthy and commendable that former governments have realised
the specific health risk of gay and lesbian people accessing Aged Care services, and have ensured that these services,
including faith-based organisations, do not unfairly discriminate against clients based on their sexuality.

The proposed Religious Discrimination Bill provides that “religious bodies”—which includes religious schools, charities and
other bodies, will be exempt from engaging in religious discrimination if the discrimination is in good faith and in accordance
with their religious doctrines, tenets, beliefs or teachings. Emboldening faith-based services or individuals to discriminate
against anyone is a health risk issue and undercuts protections against religious discrimination, particularly in the areas of
employment and the provision of goods and services.

The Bill provides that a religious “statement of belief” made in good faith (S 41) will not constitute discrimination under any
Australian discrimination law. If the legislation is enacted, we fear a future workplace culture that may become divisive and
unsafe for our valued staff.

As a regionally based service, we know that many members of our community experience a lack of choice in adequate and
accessible services and referrals. This is even more difficult for those who live in rural areas some distance from regional
centres. Many of those services that are available in local communities are faith based. There is potential that the Bill could
result in even fewer service options in rural communities and greater health inequity.

We acknowledge the need for all healthcare services to increase trust and access from members of the LGBTIQ+ community,
and for that reason we are proudly committed to becoming a Rainbow Tick Accredited organisation.

Human rights, including the right to universal healthcare, should not be negotiable. The impact of these Bills, if enacted
without the below amendments, will undoubtedly negatively affect the mental health and wellbeing of some of the most
vulnerable members of our community.

Recommendations:
Specifically, we call on the government to:

- Remove Sections 8(5) and (6) that deal with the separate treatment of rules about conscientious objection by health
  practitioners. “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” (Equality
Australia). This Bill may override state laws by allowing health professionals with a conscientious objection to refuse to refer
clients seeking care and help.

- Remove Section 8(3) dealing with the employer conduct rule which privileges religious views of those in certain
  workplaces and links these to financial impact. “It protects the religious to a greater degree than the non-religious, even
where the views expressed may be damaging in non-financial ways to a large organisation or its people. At the same time, it
affords no protection to those in smaller organisations or in the public sector, and little protection to those with non-
religious views. Without it, the Bill will still allow employees to challenge employer policies and standards that unreasonably
limit religious expression” (Equality Australia). It is not clear why a specific class of employer (ie one with an annual
revenue of over $50m) is singled out in the legislation.

- Remove S41 dealing with discriminatory statements of belief which overrides standing federal, state and territory
discrimination protection. This may give rise to favouring one right above all others. (Australian Human Rights Commission)

References
Religious Discrimination Bill 2019:
Equality Australia:
Australian Human Rights Commission:
Attorney General, Religious Discrimination Bill 2019, Speech