

VIA EMAIL: terry.lake.mla@leg.bc.ca

July 14, 2014

Hon. Dr. Terry Lake
Room 337
Parliament Buildings
Victoria, BC
V8V 1X4

Page 1/3

Re: Policy regarding sex reassignment surgery for trans* British Columbians

Dear Dr. Lake,

I am writing on behalf of the British Columbia Civil Liberties Association about the Ministry of Health's policy regarding the provision of sex reassignment surgery (SRS) for transgender, transsexual and gender-nonconforming (trans*) British Columbians.

We understand that in February 2014 the BC Human Rights Tribunal accepted a complaint filed against the Ministry (Flagg v. BC Ministry of Health, 2014 BCHRT 45), alleging a contravention of section 8 of the BC *Human Rights Code*. The complaint deals with access to SRS (specifically to chest surgery) for transmen (i.e. female-born, male-identified people). It is our understanding that the Ministry recognizes SRS as a medically necessary treatment for gender dysphoria (Transgender Health Information Program, <http://transhealth.vch.ca>).

The BC Human Rights Tribunal acknowledges transgender, transsexual and intersex people are covered under the *Code* (Waters v. Ministry of Health Services, 2003 BCHRT 13 and C. v. Ministry of Health, 2012, BCHRT 47 and Flagg v. Ministry of Health). Therefore, differential treatment in the provision of medically-necessary surgical procedures between trans* individuals and those dealing with other health issues may be a contravention of section 8.

The MSP Preamble to the Payment Schedule suggests such differential treatment. In section D9, page 1-33 it states:

Male Mastectomy

- This procedure is a benefit of MSP for gynecomastia.
- MSP authorization is not required.

Gender Reassignment Surgery

Prior approval is required for gender reassignment surgical procedures before they are deemed benefits of MSP. Approval requires that patients be assessed by two psychiatrists, with recognized and demonstrable expertise in the treatment of gender dysphoria, regarding the appropriateness of surgery. In addition, each case undergoes individual consideration by the Gender Reassignment Surgical Review Committee based on strict protocols. Medical and surgical consultations, anesthesiology and surgical assistance are not benefits when performed in conjunction with non-approved gender-reassignment surgery.

Page 2/3

While we understand that the Gender Reassignment Surgical Review Committee has been decommissioned, MSP approval is still required before a transman or transwomen can access SRS in BC, so the above-noted differential treatment continues.

The above demonstrates that there is differential treatment between transmen and male-born/male-identified men in the process of approval for a bilateral mastectomy to produce a 'male' chest. A male-born man's physician does not need MSP authorization before a mastectomy can be performed, whereas a transman's physician is required to obtain MSP approval. We understand that the Ministry's broader SRS policy is similar for all SRS services for trans* people.

This differential treatment negatively affects the health and well-being of trans* people in BC, compounding the widespread discrimination they face in other aspects of civil society (i.e. housing, employment and criminal justice). It lengthens the wait time for SRS because of the additional time required to obtain MSP approval. It requires trans* people's sensitive medical information to be shared with Ministry staff, a disclosure that would not be required by most other British Columbians accessing surgery. Requiring MSP approval denies trans* people the agency to make decisions about their own bodies in private consultation with their physicians, as non-trans* British Columbians are able to do.

Out of concern that this differential treatment may constitute discrimination against trans* people in accessing health care, we urge you to reconsider the need for Ministry approval for SRS in British Columbia. We strongly recommend that you consult with medical experts in the field of SRS and the trans* community in order to ensure that trans* people have dignified and non-discriminatory access to SRS in BC.

We look forward to your reply.

Sincerely,

Page 3/3

A handwritten signature in black ink, appearing to be 'Josh Paterson', with a long horizontal line extending to the right.

Josh Paterson, *Executive Director*