

April 12, 2019

The Honorable Jerrold Nadler, Chairman
The Honorable Doug Collins, Ranking Member
Committee on the Judiciary
U.S. House of Representatives

Re: H.R. 5, the Equality Act

Dear Mr. Nadler and Mr. Collins:

This letter synthesizes current science on transgender health to demonstrate the urgent need for non-discrimination protections such as the Equality Act (H.R. 5) to ensure that transgender and other gender-diverse Americans are afforded equal access to essential civil liberties. We also refute unscientific and anti-transgender viewpoints entered into the Congressional Record during the hearing in the House Judiciary Committee on April 2, 2019.

We submit this letter in our professional capacities as Johns Hopkins Bloomberg School of Public Health (JHSPH) faculty members, students, and staff with extensive experience or interest in lesbian, gay, bisexual, transgender, and queer (LGBTQ) health research. As the nation's oldest and largest school of public health, which has been ranked No.1 since 1994, Johns Hopkins attracts leading researchers and health professionals specializing in the health of vulnerable populations, including the transgender population. In 2017, Johns Hopkins Medicine opened the Center for Transgender Health and Surgery to provide comprehensive gender-affirming health care services for transgender individuals. That same year, JHSPH launched an LGBTQ Public Health Certificate Program, which offers four specialized courses on various aspects of LGBTQ health. These are but two examples of our growing institutional commitment to supporting LGBTQ patients, students, and professionals, and it is with these credentials that we provide this letter regarding the importance of H.R. 5. Please note that the opinions expressed herein are our own and do not necessarily reflect the views of Johns Hopkins University.

H.R. 5 Is Needed to Protect the Health and Well-Being of Transgender Americans

Transgender Americans encounter pervasive stigma and discrimination throughout their daily lives. The 2015 U.S. Transgender Survey, for instance—the largest survey of transgender people in the world, with over 27,700 respondents—documents the discrimination transgender Americans face in areas of everyday life such as employment, housing, and education (Figure 1).¹

Figure 1. Data on Anti-Transgender Discrimination in Employment, Housing, and Education Settings

Employment

In the year before the survey, 19% of participants reported being fired, denied a promotion, or not being hired for a job they applied for because of their gender identity or expression; and 15% who had a job in the past year were verbally harassed, physically attacked, and/or sexually assaulted at work because of their gender identity or expression.

Housing

Participants who stayed in a shelter in the past year reported high levels of mistreatment: 70% reported some form of mistreatment, including being harassed, sexually or physically assaulted, or kicked out because of being transgender.

Education

Alarmingly, 17% who were out as transgender or perceived as transgender in K-12 education faced such severe mistreatment that they left a K-12 school. Such mistreatment is also persistent in postsecondary settings; a participant shared: *“Every single day at college, I was harassed for being a visible trans woman. People slowed their cars down to stare at me, they shouted slurs at me from their dorm windows, insulted me in class, and a lot more I’d rather not think about. It got so bad that I tried to kill myself twice over the course of three months.”*

¹ James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M. (2016). *The Report of the 2015 U.S. Transgender Survey*. Washington, DC: National Center for Transgender Equality.

A substantial body of evidence testifies to the negative effects that different types of discrimination (e.g., interpersonal, community-level, systemic) can have on the physical and mental health of transgender people.² As stated by JVR Prasada Rao, Special Envoy to the Secretary General of the United Nations on HIV/AIDS for Asia and the Pacific, “transphobia is a health issue” that results in health concerns such as depression, anxiety, self-harm, and suicidal behavior.³ In a 2013 survey of Massachusetts transgender adults, for instance, 65% had experienced some form of discrimination in public accommodations (e.g., transportation, retail, health care) in the past 12 months.⁴ This study found that recent discrimination in health care settings—which are typically considered to be places of public accommodation—was independently associated with 31% to 81% increased risk of negative emotional and physical symptoms and two- to three-fold increased risk of postponement of both acute and preventive care. This is but one example of how profoundly transphobia can impact health by hindering the exercise of civil liberties and violating the human rights of transgender people.

Need for Access to Gender-Affirming Care in Non-Discriminatory Health Care Settings

Access to supportive and affirming health care is a particularly important concern for many transgender people. All major American medical associations agree that gender-affirming health care is medically necessary to reduce gender dysphoria and improve quality of life and physical and mental health.⁵ As described earlier, however, discrimination in health care settings can bar access to gender affirmation and other health care services for transgender Americans.⁶ H.R. 5 reinforces the important principle that all people should have access to health care free from discrimination.

Investing in the health of children and adolescents is a critical component of securing America’s future. Access to gender-affirming care is no less important for transgender and gender-diverse children and adolescents than for adults.⁷ The World Professional Association for Transgender Health (WPATH), which maintains the expert *Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming Individuals*, recommends fully reversible social transition for transgender and gender-diverse children. Once puberty has begun, adolescents, together with their parents and health care providers, can make the choices that are right for them in a staged process that starts with several years of fully reversible interventions (i.e., puberty-delaying medications) before progressing to the possibility of partially reversible or irreversible interventions. This approach is a careful and deliberate process of gender affirmation that supports the health, human rights, and bodily autonomy of transgender young people.

Concern Regarding Consideration of Unscientific Evidence

In the face of the overwhelming evidence that gender affirmation improves the health and well-being of transgender people,⁸ we are particularly concerned that a special report (“Sexuality and Gender, Findings from the Biological, Psychological and Social Sciences”)—authored by Lawrence Mayer and Paul McHugh and published in a non-peer reviewed source—was entered into the Congressional Record during debate on the importance of non-discrimination protections for transgender people. Peer-review is integral to the scientific process and exists to validate academic work and ensure the quality of published research. The Mayer and McHugh report advances false and unscientific conclusions that are contrary to current evidence and established standards of care endorsed by all major medical associations. For instance, the report flies in the face of reams of medical and social science research by representing sexual and gender minority identities as

² White Hughto, J. M., Reisner, S. L., & Pachankis, J. E. (2015). Transgender Stigma and Health: A Critical Review of Stigma Determinants, Mechanisms, and Interventions. *Social Science & Medicine* (1982), 147, 222–231. <https://doi.org/10.1016/j.socscimed.2015.11.010>

³ Winter, S., Settle, E., Wylie, K., Reisner, S., Cabral, M., Knudson, G., & Baral, S. (2016). Synergies in health and human rights: a call to action to improve transgender health. *The Lancet*, 388(10042), 318–321. [https://doi.org/10.1016/S0140-6736\(16\)30653-5](https://doi.org/10.1016/S0140-6736(16)30653-5)

⁴ Reisner, S. L., Hughto, J. M. W., Dunham, E. E., Heflin, K. J., Begenyi, J. B. G., Coffey-Esquivel, J., & Cahill, S. (2015). Legal Protections in Public Accommodations Settings: A Critical Public Health Issue for Transgender and Gender-Nonconforming People. *The Milbank Quarterly*, 93(3), 484–515. <https://doi.org/10.1111/1468-0009.12127>

⁵ Lambda Legal. (2018). Professional Organization Statements Supporting Transgender People in Health Care. Retrieved from http://www.lambdalegal.org/publications/fs_professional-org-statements-supporting-trans-health

⁶ Poteat, T., German, D., & Kerrigan, D. (2013). Managing uncertainty: A grounded theory of stigma in transgender health care encounters. *Social Science & Medicine*, 84, 22–29. <https://doi.org/10.1016/j.socscimed.2013.02.019>

⁷ Coleman, E., Bockting, W., et al. (2012). Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming People, Version 7. *International Journal of Transgenderism*, 13(4), 165–232. <https://doi.org/10.1080/15532739.2011.700873>

⁸ What We Know Project. (2018). What Does the Scholarly Research Say about the Effect of Gender Transition on Transgender Well-Being? Ithaca, NY: Center for the Study of Inequality. Retrieved from <https://whatweknow.inequality.cornell.edu/topics/lgbt-equality/what-does-the-scholarly-research-say-about-the-well-being-of-transgender-people/>

mental illnesses (i.e., implying that disparate rates of mental health issues in LGBTQ populations are caused by a “choice” to identify as LGBTQ). Following the report’s release, several JHSPH faculty members disavowed it in an editorial published in the *Baltimore Sun*.⁹ Simultaneously, nearly 700 Johns Hopkins community members signed a petition calling on the university to “publicly and specifically disavow Dr. McHugh’s and Dr. Mayer’s statements and publications on LGBT individuals.”¹⁰ Several faculty members also published a formal rebuttal to the Mayer and McHugh report in a peer-reviewed scientific journal; this rebuttal summarized the scientific evidence documenting the negative impacts that stigma and discrimination have on the health of minorities, including LGBTQ populations.¹¹ We stand with our colleagues’ statement in this rebuttal that, “as public health professionals, we are deeply concerned by Mayer and McHugh’s minimization of the large, coherent, and consistent body of evidence documenting the role that stigma plays in population health disparities, including disparities seen among sexual and gender minorities.” The polemics in the Mayer and McHugh report are not science, and they have no place in informed policymaking around the health and well-being of LGBTQ Americans.

Informed Policymaking Must Use Informed and Accurate Language

We are similarly concerned that oral testimony in opposition to H.R. 5 used demeaning and inaccurate language that attempts to invalidate the existence of transgender and gender-diverse Americans. For instance, gender affirmation was referred to as a “myth,” and transgender women were described as “men,” “women with testes,” or “men who identify as women.” In a thoroughly uninformed statement that ignores the existence of transgender people in cultures around the world and throughout history,¹² transgender identities were even dismissed as an “internet phenomenon.” This language reveals a complete disregard for the dignity and humanity of transgender people and of research that demonstrates the negative psychological impacts of misgendering and other manifestations of transphobic bias and animus.¹³⁻¹⁵ In addition, virtually all testimony referred to transgender women only, thus ignoring the existence of transgender men, non-binary, and gender non-conforming individuals. The viewpoints reflected by this biased language are based not on facts but on an ideologically motivated denial of the gender diversity that exists in the U.S. and around the world.

Fears of Hypothetical Negative Outcomes of Non-Discrimination Protections are Unfounded

Finally, arguments purporting to show potential negative consequences of H.R. 5 are both narrow and unsupported by rigorous scientific evidence. The overarching argument is a putative concern about how non-transgender Americans, predominantly non-transgender women, could experience hypothetical negative outcomes such as threats to public safety in restrooms. However, these fears have not been borne out in states where discrimination on the basis of gender identity is already prohibited.¹⁶ In fact, in 2018 the National Task Force to End Sexual and Domestic Violence released a consensus statement signed by over 300 domestic and sexual violence organizations voicing support for non-discrimination protections for transgender individuals and citing research showing no increases in sexual violence or public safety concerns in jurisdictions that passed non-discrimination protections.¹⁷ Additionally, research demonstrates that there are significant harms associated with forcing transgender individuals into facilities and services that do not align with their gender identity. For example, a statewide study in California found that, when transgender women were housed with

⁹ Beyrer, C., Blum, R. W., & Poteat, T. C. (2016, September 28). Hopkins faculty disavow “troubling” report on gender and sexuality. *Baltimore Sun*. Retrieved from <https://www.baltimoresun.com/news/opinion/oped/bs-ed-lgbtq-hopkins-20160928-story.html>

¹⁰ Petition to Hopkins to Address False LGBT Reports. (2016). Retrieved from https://assets2.hrc.org/files/documents/Petition_to_Hopkins_9.29.16.pdf?_ga=2.58567914.1306833778.1554807242-706635938.1554807242

¹¹ Valdiserri, R. O., Holtgrave, D. R., Poteat, T. C., & Beyrer, C. (2018). Unraveling Health Disparities Among Sexual and Gender Minorities: A Commentary on the Persistent Impact of Stigma. *Journal of Homosexuality*, 1–19. <https://doi.org/10.1080/00918369.2017.1422944>

¹² Reisner, S. L., Poteat, T., et al. (2016). Global health burden and needs of transgender populations: a review. *Lancet*, 388(10042), 412–436. [https://doi.org/10.1016/S0140-6736\(16\)00684-X](https://doi.org/10.1016/S0140-6736(16)00684-X)

¹³ James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M. (2016). *The Report of the 2015 U.S. Transgender Survey*. Washington, DC: National Center for Transgender Equality.

¹⁴ McLemore, K. A. (2018). A minority stress perspective on transgender individuals’ experiences with misgendering. *Stigma and Health*, 3(1), 53–64. <https://doi.org/10.1037/sah0000070>

¹⁵ Testa, R. J., Michaels, M. S., Bliss, W., Rogers, M. L., Balsam, K. F., & Joiner, T. (2017). Suicidal ideation in transgender people: Gender minority stress and interpersonal theory factors. *J Abnorm Psychol*, 126(1), 125–136. <https://doi.org/10.1037/abn0000234>

¹⁶ Hasenbush, A., Flores, A. R., & Herman, J. L. (2019). Gender Identity Nondiscrimination Laws in Public Accommodations: A Review of Evidence Regarding Safety and Privacy in Public Restrooms, Locker Rooms, and Changing Rooms. *Sexuality Research and Social Policy*, 16(1), 70–83. <https://doi.org/10.1007/s13178-018-0335-z>

¹⁷ National Task Force to End Sexual and Domestic Violence. (2018). National Consensus Statement of Anti-Sexual Assault and Domestic Violence Organizations in Support of Full and Equal Access for the Transgender Community. Retrieved from <http://www.4vawa.org/ntf-action-alerts-and-news/2018/4/12/national-consensus-statement-of-anti-sexual-assault-and-domestic-violence-organizations-in-support-of-full-and-equal-access-for-the-transgender-community>

non-transgender men in prison, they were 13 times more likely to be sexually assaulted than non-transgender male prisoners in the same facilities.¹⁸ Finally, testimony presented during the hearing implied that revising non-discrimination laws to explicitly include gender identity only benefits transgender individuals; however, every person has a gender identity that deserves protection from discrimination.

Summary of the Importance of Non-Discrimination Protections for Transgender People

There are no explicit federal statutory civil rights protections—crucial human rights protections that are integral to health and well-being—for the approximately 1.4 million U.S. adults and 150,000 young people aged 15 to 17 who identify as transgender.¹⁹ In the majority opinion for *United States v. Windsor*, Justice Anthony Kennedy wrote: “The nature of injustice is that we may not always see it in our own times. The generations that wrote and ratified the Bill of Rights and the Fourteenth Amendment did not presume to know the extent of freedom in all its dimensions, and so they entrusted to future generations a charter protecting the right of all persons to enjoy liberty as we learn its meaning.”²⁰ In this spirit, it is time that federal civil rights law explicitly and comprehensively protects transgender and gender-diverse Americans. We thank you and the other members of the Committee on the Judiciary for your consideration of these important issues.

Sincerely,



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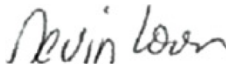
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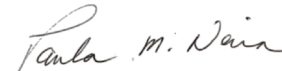
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¹⁸ Jenness, V., Maxson, C. L., Matsuda, K. N., & Sumner, J. M. (2009). Violence in California Correctional Facilities: An Empirical Examination of Sexual Assault, p. 3. Irvine, CA: Center for Evidence-Based Corrections.

¹⁹ Flores, A.R., Herman, J.L., Gates, G.J., & Brown, T.N.T. (2016). *How Many Adults Identify as Transgender in the United States?* Los Angeles, CA: The Williams Institute.

²⁰ *United States v. Windsor*, 570 U. S. 744 (2013)

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