

Medical Critique of the
Australian Medical Association's
Position Statement on Marriage Equality

Misleading the public
Neglecting the child

July 2017

Introduction

The Australian Medical Association has lent its authority to the cause of homosexual ‘marriage’ by issuing its *Position Statement on Marriage Equality* (May 20th 2017).ⁱ This was done without consulting AMA members or the wider medical community, and now we, the undersigned medical practitioners, respond.

Our nation’s peak medical body should not publish misleading information, yet that is what happens in this Position Statement.

Of several examples, the most egregious is the assertion that there is no peer-reviewed evidence of “poorer health or psychosocial outcomes” for children raised in same-sex parented families. That is a politically potent claim and unequivocally false. We reference peer-reviewed articles that do find poorer outcomes for children raised by same-sex couples, and we also show that the AMA was aware of this evidence.

By denying publicly that there is any such evidence of detriment to children, while admitting privately that there is, the AMA has misled the public on a crucial aspect of the marriage debate and must be held to account.

To reach such a conclusion about our peak medical body is distressing for those of us who have been AMA members for most of our professional lives. It is because the AMA’s integrity matters and the best interest of the child matters that we speak out against this Position Statement.

Our analysis is divided into two parts. In Part A we deal with the most serious offence in the Position Statement: the suppression of unfavourable evidence and the uncritical promotion of favourable evidence concerning consequences for children; in Part B we address three other misleading claims.

Part A

1. The AMA’s suppression of evidence of harm to children.
2. The AMA’s uncritical support for evidence of benefit to children.

Part B

1. The AMA’s claim regarding stigma, LGBT health and ‘marriage equality’.
2. The AMA’s claim regarding a link between ‘marriage equality’ and health care access.
3. The AMA’s claim regarding “tragic consequences in medical emergencies”.

We hope that the *Position Statement on Marriage Equality* is a temporary aberration and does not mark the capitulation of the AMA to ‘progressive’ politics. Other professional bodies appear to have succumbed, such as the APA (American Psychological Association), whose former president Dr Nicholas Cummings wrote: “the APA has chosen ideology over science” and “advocacy for scientific and professional concerns has been usurped by agenda-driven ideologues”.ⁱⁱ

With this *Position Statement on Marriage Equality*, it is our conclusion that the AMA “has chosen ideology over science”.

- Members of the Working Group are listed at the end of this document.
The AMA Position Statement is attached.

Part A

1. The AMA's suppression of evidence of harm to children

On the vital question of the consequences for children who are raised by same-sex couples, the AMA document declares (*Children's welfare* para.2):

There is no putative, peer-reviewed evidence to suggest that children raised in same-sex parented families suffer poorer health or psychosocial outcomes as a direct result of the sexual orientation of their parents or carers.

That is an astonishing claim for a policy committee of our peak medical body to make. It is demonstrably false. Consider a selection of published peer-reviewed studies that do indeed find "poorer health or psychosocial outcomes" for children raised in same-sex parented families:

(A) Poorer emotional outcomes

Sullins D.P., "Emotional Problems among Children with Same-Sex Parents: Difference by Definition," *British Journal of Education, Society and Behavioural Science* 7, no. 2 (2015): 99-120

Sullins' study is one of the largest random-sample representative studies yet conducted in this field. His findings are statistically robust and were published in a journal that has one of the highest rankings possible for rigour of the peer-review process.ⁱⁱⁱ Drawing on the *US National Health Interview Survey* database of 207,000 children, including 512 from same-sex households, Sullins concluded that "emotional problems were over twice as prevalent for children with same-sex parents than for children with opposite-sex parents". Specifically, serious emotional problems were found in 17.4% of children with same-sex parents versus 7.4% of children from opposite-sex parents. That rose to almost four times the risk (3.6) when compared to the optimum subgroup of children with married biological parents.

(B) Poorer educational outcomes

Allen D., "High school graduation rates among children of same-sex households," *Review of Economics of the Household* 635 (2013)

Graduation from high school is an established marker of social wellbeing, and this study finds it is worse in same-sex parented homes. Douglas Allen's peer-reviewed study drew on a random sample, large-scale representative database (a 20% sample of the Canadian Census) and contained a control group. Allen found that "Children living with gay and lesbian families in 2006 were about 65% as likely to graduate compared to children living in opposite sex marriage families."

(C) Multiple adverse outcomes

Regnerus M., "How different are the adult children of parents who have same-sex relationships? Findings from the New Family Structures Study," *41 Social Science Research* 752 (2012)^{iv}

This analysis of data from the large, random, representative *New Family Structures Study* found a wide range of detriments to children who had a parent in a same-sex relationship at some

point in their childhood. As the first large-scale representative study to challenge the prevailing view it attracted predictable controversy about interpretation of data, but the study still stands as part of the peer-reviewed literature.^v

It is not an option for a professional body to deny the existence of peer-reviewed evidence that contradicts its position. The AMA committee had the option of critiquing the opposing research, but not of declaring there is no such research and thereby misleading the public and politicians.

We know that the AMA was aware of this evidence of harm to children. The AMA Director of Public Health wrote to one concerned member explaining his role in providing research for the Position Statement. He states, concerning Sullins, Allen and Regnerus, "I am personally aware of the papers you cited".^{vi}

To be "personally aware" of the peer-reviewed evidence showing poorer outcomes for children of same-sex parented families and then to publish a formal political statement saying no such evidence exists - that cannot be an inadvertent error.

How is it possible to avoid the conclusion that the AMA has knowingly propagated a politically misleading claim?

Plausible deniability?

One possible way to avoid this conclusion relies on the word "putative" and the phrase "as a direct result". Do these words create enough ambiguity in the AMA claim to excuse it from the accusation of knowingly misleading the public?

The word "putative" does not help; it is an incoherent word in this context. According to the Cambridge Dictionary, putative means "purporting to be". The dictionary example is, "The putative leader of the terrorist cell was arrested yesterday." So the statement, "There is no putative peer-reviewed research" means there is no such research that *purports* to be peer-reviewed. That is absurd. The research by Sullins, Allen and others does not 'purport' to be peer-reviewed; it *is* peer-reviewed as a matter of published fact.

Likewise, "as a direct result of the sexual orientation of their parents" is an incoherent concept, since no social science proves consequences "as a direct result" but only as an association. Such a misguided criterion would disqualify social science on both sides of the marriage debate, including the Position Statement's two favoured papers (Crouch and Dempsey) that find *benefit* from same-sex parenting. These two papers cannot show their findings to be "a direct result of the sexual orientation of the parents", so the AMA would have to reject them. But of course the AMA does not reject them; it cites them despite their failure to demonstrate any direct cause and effect relationship. Therefore, "as a direct result" is an empty phrase in this context, as redundant as the word "putative".

Moreover, the AMA Director of Public Health avoided these redundant words in his response to expressions of concern from members about the 'no evidence' claim. The Director did not appeal to shades of meaning of "putative" or "as a direct result". He wrote plainly to one of the doctors: "If you are aware of any peer-reviewed evidence to suggest that there are negative consequences for children of same-sex parents which may have been missed in the development of the position statement, I would ask you please forward it on for consideration."

Put to one side the fact that the Director was already “personally aware” of such peer-reviewed evidence and had already given it consideration. What we are interested in here is the absence of redundant words. The Director speaks simply of “peer-reviewed evidence” without mention of “putative”. His phrase “negative consequences for children of same-sex parents” is not qualified by “as a direct result”. Shorn of its verbal clutter, the AMA message would read:

“There is no peer-reviewed evidence to suggest that children raised in same-sex parented families suffer poorer health or psychosocial outcomes.”

The Position Statement’s take-home message to politicians and the public is unambiguous. It is also false and the AMA had reason to know it is false.

AMA members express concern

Understandably, those of us who are AMA members have been dismayed. A paediatric specialist wrote to the federal President:

As an AMA member since graduation 50 years ago, and a paediatrician of over 40 years’ experience, I write to express my disappointment at the sudden press release in favour of same-sex marriage ... Your statement that there is no reliable evidence that children raised in same-sex parented families suffer poorer outcomes can be challenged. You should be familiar with the major papers by authors such as Paul Sullins and Mark Regnerus, Douglas Allen and Loren Marks. Yes, these people have been attacked by same-sex activists, but their data remain valid.

A GP and longstanding AMA member wrote on the day of the Position Statement’s release:

Of course there is "putative peer-reviewed evidence to suggest that children raised in same-sex parented families suffer poorer health or psycho-social outcomes as a direct result of the sexual orientation of their parents or carers". Since when has the AMA seen fit to blind itself to the published evidence? On balance, it is clearly harmful to children to deprive them of one or other biological parent by a policy such as same-sex 'marriage'.

And a senior AMA member wrote:

For the last 28 years I thought I was a member of an august, medical professional association, one that carefully analysed issues, examined and weighed evidence rigorously and dispassionately, sought guidance where necessary and, if necessary, made public statements designed to improve the health of the community. It seems this is no longer the case. The AMA has strayed into social activism and has mortgaged its credibility, trading veracity for virtue signalling and popular politics.

- By denying the existence of research showing harm to children of same-sex parented families, the AMA has misled the public on a great political question; it has also neglected the needs and best interests of the child.

2. The AMA's uncritical support for evidence of benefit to children

In contrast to the Position Statement's suppression of evidence of harm to the child, it is entirely uncritical of evidence favourable to its position.

As noted above, Deborah Dempsey^{vii} and Simon Crouch^{viii} are the only two authorities cited in the Position Statement to justify the claim that same-sex parenting is neutral or beneficial for children, and their work is given a critique-free endorsement (*Children's welfare* para.2):

There is research highlighting that physical, psychosocial, psychological, and educational outcomes for these children are on par with, and in some aspects comparatively better than, children raised in heterosexual parented families.

Consider this double standard. On the one hand, research that shows adverse outcomes for children in same-sex households is denied by the AMA; on the other hand, research showing mostly neutral or beneficial outcomes for such children is accepted without question. Such an approach violates standards of scholarship and should not be countenanced by our peak medical body.

For a medical study to inform public policy validly it should draw on a random, representative sample that is of sufficient size to allow statistically significant findings. The studies by Sullins, Allen and Regnerus (which find adverse outcomes for children) do meet these criteria but that of Crouch certainly does not, and a proper analysis of the Dempsey report finds that (1) her conclusions rely mostly on small, biased, unrepresentative studies, (2) the few large, representative studies she quotes show, on balance, *disadvantage* to children of homosexual households.

For the interested reader, a critical assessment that was not provided by the AMA concerning its two key references follows.

The missing critique

1. The Crouch study

Simon Crouch is a lead author for the "Australian Study of Child Health in Same-Sex Families" (ACHES) under the auspices of the University of Melbourne.^{ix} In 2014 he published, "Parent-reported measures of child health and wellbeing in same-sex parented families"^x and the Australian Broadcasting Corporation reported his study with the headline, "Children raised by same-sex couples healthier and happier, research suggests".^{xi} Crouch noted the significance of his research for the current debate on same-sex 'marriage':

Dr Crouch said the study findings had implications for those who argued against marriage equality for the sake of children. "Quite often, people talk about marriage equality in the context of family and that marriage is necessary to raise children in the right environment, and that you need a mother and a father to be able to do that, and therefore marriage should be restricted to male and female couples," Dr Crouch said. "I think what the study suggests in that context is that actually children can be brought up in many different family contexts, and it shouldn't be a barrier to marriage equality."

Given the lead author's vested interest in this subject, himself raising children in a same-sex relationship, the study needed to be scrupulous in avoiding any perception of bias - either selection bias in the recruitment of subjects or reporting bias in the gathering of information. Unfortunately, the study fails on both counts.

On recruitment of subjects, one reads in the report: "The convenience sample was recruited using online and traditional recruitment techniques, accessing same-sex attracted parents through news media, community events and community groups." The problem is that this is an obvious instance of selection bias, relying not on random selection but self-selection. Further, the sample of parents was unrepresentative of the general population, being better educated and wealthier.

The study fares no better on the matter of reporting bias: "Parents reported information for all children under the age of 18 years." In other words, all the data in this study of "child health and well-being in same-sex families" was gathered by asking the same-sex parents themselves what they thought about such things as their child's "self-esteem", "general behaviour", "family cohesion" and "emotional problems". Despite these biases, the reported emotional advantage for children of same-sex households was only a few percent: "On the Child Health Questionnaire, after adjusting for socio-demographic characteristics, the overall mean score for general behaviour, general health and family cohesion was 3%, 6% and 6% higher respectively for children from the ACHES compared to population data."

The author acknowledged the limitations and potential bias of his study: "The self-selection of our convenience sample has the potential to introduce bias that could distort results. It is clear that the families from the ACHES are earning more and are better educated than the general population." This problem of a biased and unrepresentative sample was not reported in the interview with the ABC.

The author claims: "Whether there are real differences between the ACHES sample and the normative population or not, it is clear that there are aspects at play in our sample of same-sex families that allow improved outcomes in general behaviour, general health, and in particular family cohesion."

With respect, what is clear is that well educated and motivated same-sex parents recruited through gay networks in the context of a politically charged debate on gay marriage could be expected to report that they have exceptionally well-behaved healthy kids and a cohesive family.

The study by Crouch provides no scientific basis for the uncritical claim by the AMA that the wellbeing of children of same-sex parents is "on par with, and in some aspects comparatively better than, children raised in heterosexual parented families".

2. The Dempsey report

Similarly, the Dempsey (Australian Institute of Family Studies) report provides no basis for that claim. It was published in 2013, before the studies by Sullins and Allen were published, but after Regnerus. Dempsey acknowledged the limitations of the mainly small, biased-sample, unrepresentative studies published to that date:

Researchers in this field have noted a range of limitations with regard to how their samples of participants are drawn. Although this is beginning to change, many studies are based on small and homogenous samples of highly educated and middle-class participants. Many of the comparative studies conducted to date on children or young adults raised in same-sex

parented families are based on volunteer samples of participants rather than random samples. This means that it is unknown how representative and generalisable the studies' results are.^{xii}

She listed the only large, random, generalizable studies that had been published by 2013:

There have now been several randomly sampled comparative studies published on educational outcomes for children from same-sex and heterosexual families (Potter, 2012; Rosenfeld, 2010), and also social outcomes (Regnerus, 2012; Wainwright, Russell, & Patterson, 2004).

These were the only studies at the time of Dempsey's report that met the necessary criteria to reliably inform public policy. Other studies mentioned in her report are not large, random and representative and therefore cannot sustain any generalizable conclusion for the purposes of public policy; nor for the purposes of an AMA Position Statement.

This left Dempsey (and the AMA) with just four studies upon which to base the conclusion of 'neutral or beneficial' outcomes for children of same-sex homes: Potter, Rosenfeld, Regnerus and Wainwright. Far from showing the positive outcome reported by the AMA, a tally of these four studies tips the balance away from neutral to harmful.

To understand this conclusion – which contradicts the assertion of the AMA's Position Statement – briefly consider the Potter, Rosenfeld and Wainwright studies (since we have noted Regnerus above).

Potter

Daniel Potter published "Same-Sex Parent Families and Children's Academic Achievement" in 2012.^{xiii} He analysed the database of 19,000 children in the USA Early Childhood Longitudinal Study - Kindergarten Cohort which included 72 same-sex parent families. Importantly, his analysis included comparison between children of same-sex homes and children of married biological parents.

He found that "Children in same-sex parent families appeared to have lower baseline math scores, on average, than their peers in married, two-biological parent families, and this association was robust to select sociodemographic factors".

This decrease in a key measure of school performance is what we would expect under the "broken biological bonds" hypothesis – that children, on average, are harmed by the act of breaking their kinship bond with either mother or father. In this study, the adverse finding is not specific to same-sex parenting: children of all biologically disrupted family structures (single parents, divorced and blended families) suffered disadvantage similar to the same-sex parented children. All such family structures were disadvantaged when compared to children of married biological parents.

Rosenfeld

Rosenfeld's study (2010) was neutral in its conclusion: that "children of same-sex couples are as likely to make normal progress through school as the children of most other family structures", but this modest 'no difference' conclusion is discredited by the fact that his data was compromised.^{xiv} Up to forty per cent of the "same-sex couples" he claimed for his study were in fact opposite-sex couples.

Rosenfeld used US Census data that had previously been shown by researchers at the California Centre for Population Research (CCPR) to be corrupted by miscoding.^{xv} Until Rosenfeld's study is reanalysed using the correct coding, it cannot be relied upon.

The 2004 study by Jennifer Wainright and her colleagues, “Psychosocial adjustment, school outcomes, and romantic relationships of adolescents with same-sex parents”, drew on an in-depth database of over 20,000 young people between age 10 and 17, the US National Longitudinal Study of Adolescent to Adult Health (AddHealth).^{xvi} Therefore it meets the criteria for a large, randomly sampled, representative, generalisable study.

Her study revealed a significant advantage for children of lesbian households in the somewhat nebulous criterion of “school connectedness”. Importantly, however, in a reanalysis of the Wainright study published in 2015, Sullins identified serious database errors.^{xvii} Of the 44 cases of children of “lesbian parents” identified by Wainright from the AddHealth database, most of them were not in fact children raised by lesbian parents. The questionnaire actually reported that 27 of those children had both their father and mother living with them.

Sullins reanalysed the data using only the genuine lesbian and gay couple households and two negative findings emerged: first, that children of same-sex households suffered a statistically significant increase in anxiety compared to their peers from mother-father households. Second, that the adverse emotional effect was worse for children of *legally married* same-sex couples than for children of unmarried same-sex couples, and it got more severe the longer the couples were ‘married’. That finding is unexpected and requires confirmation by other researchers but it challenges the assumption that children of same-sex parents will benefit from legalising same-sex ‘marriage’.

On the positive side, the corrected Wainright data still finds better “school connectedness” for children of lesbian homes and Sullins uncovers a new finding of slightly higher Grade Point Average at school. The question is whether this advantage is outweighed by the adverse finding of elevated emotional distress in such children.

In summary, the outcome for children in the four large representative studies cited by Dempsey is more negative than positive:

- Potter finds the educational advantage lies, in fact, with children of married biological parents, while all biologically disrupted family forms (including same-sex parented homes) show disadvantage;
- Rosenfeld finds a neutral outcome in education across family forms, but his study has to be set aside due to major corruption of his database;
- Regnerus, as previously mentioned, finds a wide range of adverse outcomes for children who had a parent in a same-sex relationship at some time in their childhood;
- Wainright is the one study that finds some advantage to children in same-sex homes: improved “school connectedness” and a slight improvement in GPA. Importantly, however, in the reanalysis of her corrected database, Sullins finds a significant worsening of anxiety for the children in her study – and that weighs against the positive findings.

All this before we add in the four studies by Allen and Sullins, each with adverse findings for children raised by same-sex parents.^{xviii}

Therefore, the two authors cited by the Position Statement do not confirm the AMA’s claim that “outcomes for these children are on par with, and in some aspects comparatively better than, children raised in heterosexual parented families”. The Crouch study is neither random nor representative nor free of bias and is therefore not generalisable. The four large, random and representative studies in the Dempsey report show, on balance, poorer outcomes for children of same-sex parents.

Conclusion

Decades of research have confirmed that children do best, on average, when raised by their married biological mother and father.

As Rutgers sociologist David Popenoe stated: “Few propositions have more empirical support in the social sciences than this one: compared to all other family forms, families headed by married, biological parents are best for children.”

Likewise, a leading secular research institute in the USA, Child Trends, sums up the settled position of social science: “Research clearly demonstrates that family structure matters for children, and the family structure that helps children the most is a family headed by two biological parents in a low-conflict marriage.”^{xix}

The family structure headed by same-sex parents cannot give a child her biological parents; therefore, it is not the best structure for children. Professor John Londregan of Princeton University sums up: “A picture emerges: in a cross-section of children raised by parents in same-sex relationships, life outcomes tend to resemble those of children raised by single and divorced parents.”^{xx}

Why then would doctors, who should defend a child’s best interests, advocate for a family structure that necessarily breaks a child’s kinship bonds and predictably confers disadvantage?

Sullins and Regnerus joined other academics and paediatricians in an *Amici Curiae* brief to the US Supreme Court (*Obergefell*, 2015) and concluded:

The longer social scientists study the question, the more evidence of harm is found, and the fact that children with same-sex parents suffer significant harm in that condition, compared to children with opposite-sex parents, particularly among same-sex parents who identify as married, has been established beyond reasonable doubt. Despite intense political bias to suppress the findings set forth herein, evidence from large, nationally-representative studies has demonstrated that children raised by same-sex parents, particularly those who identify as married, do not fare as well as those with opposite-sex parents, and many experience substantial harm.^{xxi}

The AMA Position Statement manifests this “intense political bias to suppress the findings” by denying the very existence of peer-reviewed research by scientists like Sullins, Allen and Regnerus.

- We conclude that the Position Statement has misled politicians and the public on the question of harm to children of same-sex parented families, which is at the ethical heart of the debate on same-sex ‘marriage’. In so doing, the AMA has neglected the best interests of children. For those of us who have been AMA members for decades, that is a deeply troubling conclusion.

In Part B, we address three further claims by the AMA that convey politically sensitive messages without proper clinical justification. While not as overt as the assertion about ‘no evidence’ of harm to children, these claims add to our concerns about academic credibility and social activism.

Part B

1. The AMA's claim regarding stigma, LGBT health and 'marriage equality'

On the important question of LGBT health, the AMA asserts (*Importance of Recognition* para.1):

Measures which reduce stigmatisation, such as marriage equality, have been shown to improve overall health outcomes among LGBTIQ populations.

Laws for 'marriage equality' have not "been shown" to do any such thing. It is an abrogation of academic standards to draw an unequivocal conclusion from weak and inconclusive data.

The Position Statement gives only one reference to substantiate its claim and that is a study of a single clinic in a single city in the USA 14 years ago.^{xxii} The study is compromised since the sample group was not random and – most importantly – there was no control group to validate the findings.

This study was an estimate of the number of visits by LGBT patients to a clinic in the 12 months after Massachusetts introduced same-sex 'marriage' (2003) compared to the 12 months prior, and found a slight reduction in the number of medical and psychological consultations in the year after the law changed. However, with no control group of non-LGBT patients, there is no way to exclude external confounding factors for this finding. The paper speculates as to how the change in marriage law might have led to LGBT people making only 2.93 annual mental health visits instead of 3.35, but admits,

Given the exploratory nature of these results, our findings on potential mechanisms should be interpreted with caution and require replication in future studies. Limitations of the study included the possibility of unmeasured confounding.

There is no such caution from the AMA Position Paper: just the politically charged message that a change in the marriage laws was "shown to improve overall health outcomes". The scant evidence from the study does not allow such a bold claim.

A serious academic treatment of the thesis that marriage law and health outcomes are connected would have sought out evidence both for and against the proposition. It would have asked why the mental health of LGBT people in ultra-tolerant countries like Sweden and Holland, which have long had same-sex 'marriage', remains relatively poor. It would have considered, for example, the 2016 review of suicide risk in Swedish married couples in the *European Journal of Epidemiology*, which found that:

Among same-sex married men the suicide risk was nearly three-fold greater as compared to different-sex married (IRR 2.895 % CI 1.5–5.5). This holds true also after adjustment for HIV status. Even in a country with a comparatively tolerant climate regarding homosexuality such as Sweden, same-sex married individuals evidence a higher risk for suicide than other married individuals.^{xxiii}

- The Position Paper is unjustified in claiming that changes in marriage laws "have been shown to improve overall health outcomes among LGBTIQ populations". This claim is founded on a single inadequate study and does not consider any contrary facts. It violates academic principle to draw an unequivocal conclusion from inconclusive and one-sided data.

2. The AMA's claim regarding the link between 'marriage equality' and access to health care

The second claim seeks to link our “discriminatory” marriage laws to impaired LGBT access to health care, but its evidence is spurious (*Importance of recognition* para.3):

Structural discrimination, such as the absence of marriage equality, has been shown to impede access to health care. Conversely, access has been shown to improve after the adoption of less discriminatory laws.

The Position Statement gives just one proof for its claim. The “proof” is an essay peculiar to the circumstances of the USA, arguing that ‘marriage equality’ in that country made it easier for LGBT people to access employer-sponsored health insurance.^{xxiv}

It is difficult to see how that is relevant to the Australian debate. Certainly, there are Americans who face a choice between employer-sponsored health cover or no health cover at all, but nobody faces that choice in Australia. The nightmare of the American employer-sponsored health insurance system is irrelevant to Australia where we have universal Medicare and free public hospitals.

This USA-specific study concluded, “Same-sex marriage, therefore, remains an important health policy issue and relevant to the public policy goal of expanding access to health care through employer-sponsored health plans.”

That might be the case for Americans and their employers, but it is no basis for arguing that ‘marriage equality’ would make health care more accessible for LGBT people in Australia.

- The AMA uses American evidence that does not apply to Australia in claiming there is a problem with LGBT access to health care in Australia that will be fixed by ‘marriage equality’. The claim is specious and should be retracted.

3. The AMA's claim regarding "tragic consequences in medical emergencies"

Under the section entitled *Implications for Doctors*, the Position Statement makes another rhetorically powerful but poorly founded assertion:

The lack of legal recognition of same-sex couples can have tragic consequences in medical emergencies, for example, when one partner may need to make decisions on behalf of their ill or injured spouse. Without a legally recognised marriage, individuals may not have the right to advocate for their partner, and decision-making power may be deferred to a member of the patient's immediate biological family.

This claim has only one reference to justify it: a *Sydney Morning Herald* article from 2016 entitled, "Australian authorities refuse to recognise same-sex marriage of man who died on honeymoon".^{xxv} The story concerned a British visitor who tragically fell down stairs and died; the grievance was not about medical care but about non-recognition of the two men's British marriage on the South Australian death certificate.

A South Australian barrister advises us: "The case cited was not to do with making decisions in emergencies but whether the death certificate said 'marriage' or not."

In addition, the article claimed that lack of legal recognition of the two men's marriage meant the surviving partner could not make "decisions around his husband's death". Yet there are several ways in which one individual can be given decision-making powers for another without recourse to a marriage certificate. These include registers of relationships, powers of attorney, or a simple application to the Magistrates Court.

As the barrister confirmed, "The proposition that same sex marriage is needed to allow one partner to make a decision for another is legally wrong."

To prove the redundancy of a marriage certificate, South Australia has now joined other states in establishing a Relationships Register, which clarifies next of kin status without any need for same-sex 'marriage'. The bereaved British tourist responded in the Australian press with "satisfaction that other couples would now be allowed to register their love and a next-of-kin".^{xxvi}

In this way the administrative problem is solved while the marriage laws remain unchanged.

- The dramatic claim by the AMA that legally recognized same-sex marriage is required to avoid "tragic consequences in medical emergencies" is misleading and legally incorrect.

CONCLUSION

This critique of the Australian Medical Association's *Position Statement on Marriage Equality* concludes that it has misled politicians and the public:

- On the crucial question of harm to children of same-sex parents, the AMA misrepresents the science by asserting publically that no peer-reviewed evidence of harm exists while acknowledging privately that it does.
- Additionally:
 - On the alleged link between 'marriage equality' and LGBT health, the AMA violates academic standards by making an unequivocal claim based on poor-quality evidence without considering contrary facts.
 - On the alleged link between 'marriage equality' and LGBT access to health care, the AMA relies on evidence from America that is irrelevant to Australia.
 - On the emotive assertion that "tragic consequences in medical emergencies" will occur if we don't have 'marriage equality', the AMA uses specious evidence and false legal argument.

The Position Statement is fatally flawed, not least by its poor scholarship. It is unworthy of the Australian Medical Association and we call for its immediate and public retraction.

WORKING GROUP

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- ⁱ AMA Position Statement on Marriage Equality (20/5/17) <https://ama.com.au/position-statement/marriage-equality-2017>
- ⁱⁱ Cummings N. and Wright R. eds., *Destructive trends in mental health: the well-intentioned path to harm* (Routledge, 2005), 14.
- ⁱⁱⁱ In an independent assessment of peer review at over three hundred scientific publishers by Science, the world's premiere scientific journal, the publisher of Sullins' studies attained the highest ranking possible for peer review rigor, a distinction earned by only the top 7% of journals worldwide. See John Bohannon, "Who's Afraid of Peer Review?" 342 *Science* 60, 60–65 (2013) at 64.
- ^{iv} Regnerus M., "How different are the adult children of parents who have same-sex relationships? Findings from the New Family Structures Study," 41 *Social Science Research* 752 (2012) <http://www.sciencedirect.com/science/article/pii/S0049089X12000610>
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Marriage Equality 2017

Preamble

Lesbian, gay, bisexual, transgender, intersex and queer/questioning (LGBTIQ) Australians experience significantly poorer health outcomes than the broader population. Many of these inequalities are the tragic manifestation of a long history of institutional discrimination, including: the criminalisation of male homosexuality, the classification of homosexuality as a psychiatric disorder, the availability of the 'gay panic defence' in cases of assault or murder, and the prohibition of same-sex adoption. Many of these injustices have been appropriately nullified, yet LGBTIQ Australians still do not enjoy equal treatment under Australian law.

In 2004, former Prime Minister John Howard introduced an amendment to the *Marriage Act 1961* which defined marriage as "the union of a man and a woman to the exclusion of all others, voluntarily entered into for life".¹ As a result of this amendment, Australian same-sex couples are excluded from the institution of marriage; an omission that has significant psychosocial and physiological health consequences for LGBTIQ identifying Australians.

AMA Position

1. It is the right of any adult and their consenting adult partner to have their relationship recognised under the *Marriage Act 1961*, regardless of gender.
2. Current anti-discrimination laws should be maintained and enforced to ensure that businesses cannot withhold goods or services from clients due to their gender or sexual orientation.
3. There are real and significant mental and physiological health impacts arising from structural discrimination, and the AMA supports moves to eliminate it in all of its forms.
4. All Australian doctors should offer sensitive, non-discriminatory care to all of their patients, regardless of their sexual orientation or gender identity.

Background

There is no definitive data on the number of Australians who identify as LGBTIQ. According to data from the 2011 Census, same-sex couples make up approximately one per cent of all Australian couples,² whilst over three per cent of all respondents to a 2014 Roy Morgan survey identified as homosexual.³ It is likely that these figures are an underrepresentation of the true number of Australians who identify as LGBTIQ.

Marriage equality has been on the Australian political agenda, with varying degrees of urgency, for more than a decade. Since the 2004 amendment to the *Marriage Act*, 18 Bills directly addressing marriage equality or same-sex marriage have been considered by the Australian Parliament, none of which have progressed past the Second Reading Stage.⁴ Six of these Bills were considered by the 44th Parliament, suggesting that the push for marriage equality is gaining increasing traction.

In October 2013, the ACT Legislative Assembly passed the *Marriage Equality (Same Sex) Act 2013*, which allowed marriage between two consenting adults of the same sex. The Commonwealth Government challenged the Act in the High Court. In December 2013, the High Court struck the laws down as unconstitutional, thereby voiding all ceremonies carried out under the Act. The judgment confirmed the Federal Parliament's power to legislate for same-sex marriage.

In October 2016, the Federal Parliament considered the *Plebiscite (Same-Sex Marriage) Bill 2016*⁵ which sought to establish the legislative framework for a compulsory in-person vote in a national plebiscite that would ask Australians: "Should the law be changed to allow same-sex couples to marry?" The Bill was passed through the House of Representatives but was defeated in the Senate by a vote of 29-33.

It is likely that marriage equality will remain on the political agenda until it is resolved.

Importance of recognition

People who identify as LGBTIQ have significantly poorer mental and physiological health outcomes than those experienced by the broader population, and are more likely to engage in high-risk behaviours such as illicit drug use or alcohol abuse.⁶ People who identify as LGBTIQ have the highest rates of suicidality of any population group in Australia.⁶ It is important to consider these inequities a consequence of discrimination and stigmatisation of LGBTIQ identifying individuals, rather than a symptom of the orientation itself. Measures which reduce stigmatisation, such as marriage equality, have been shown to improve overall health outcomes among LGBTIQ populations.⁷

Some of the inequalities experienced by LGBTIQ Australians can be explained by the Minority Stress Model, which proposes that poorer health outcomes in minority groups can be partially attributed to stressors caused by living in a hostile or homophobic culture.⁸ Minority stress arises from external factors, such as discrimination, or internal factors, such as internalised homophobia or identity concealment. There is a growing body of evidence to suggest that Minority Stress is extremely common among LGBTIQ Australians and their health outcomes are suffering as a result.⁹

Poor health outcomes for LGBTIQ Australians are compounded by reduced access to health care.¹⁰ Structural discrimination, such as the absence of marriage equality, has been shown to impede access to health care. Conversely, access has been shown to improve after the adoption of less discriminatory laws.¹¹

Implications for Doctors

The lack of legal recognition of same-sex couples can have tragic consequences in medical emergencies, for example, when one partner may need to make decisions on behalf of their ill or injured spouse. Without a legally recognised marriage, individuals may not have the right to advocate for their partner, and decision-making power may be deferred to a member of the patient's immediate biological family.¹²

Children's welfare in same-sex parented families

Same-sex parenting is, and should be treated as, a separate issue to same-sex marriage or marriage equality. Thousands of Australian children are already being raised in same-sex parented families.¹³

There is no putative, peer-reviewed evidence to suggest that children raised in same-sex parented families suffer poorer health or psychosocial outcomes as a direct result of the sexual orientation of their parents or carers. There is research highlighting that physical, psychosocial, psychological, and educational outcomes for these children are on par with, and in some aspects comparatively better than, children raised in heterosexual parented families.¹⁴

Children of same-sex parented families do, however, experience negative psychosocial outcomes when their family is the subject of perceived stigmatisation, rejection, or homophobia.^{15,16} Marriage denial, and the ongoing public debate surrounding the introduction of same-sex marriage, has been shown to compound perceptions of homophobia and rejection among these families.

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