

# Misgendering and experiences of stigma within health care settings for transgender individuals

Misgendering negatively affects the mental and physical health of trans individuals

**M**isgendering occurs when a person is addressed or described using language that does not match their gender identity.<sup>1</sup> Misgendering within the health care system can significantly affect the mental and physical health of transgender (hereafter trans) individuals and can negatively impact future engagement with the health care system. Systemic policies and practices create situations which increase the likelihood of misgendering and experience of stigma, affecting the delivery of health care to trans individuals.

Fundamental to a discussion of the impacts of misgendering is an understanding of the difference between sex and gender and of gender non-conformity. Sex is assigned at birth by chromosomal, gonadal and anatomical characteristics. Gender forms part of an individual's personal and social identity,<sup>2</sup> and may be fixed or fluid. Gender non-conformity describes individuals whose "gender identity, role, or expression differs from what is normative for their assigned sex".<sup>3</sup> Trans individuals include trans women (who identify as female but were assigned male at birth), trans men (who identify as male but were assigned female at birth), and those who do not identify as male or female and may describe their identity using a number of terms including non-binary, bigender or agender.<sup>4</sup>

Trans individuals have complex health needs and may interact with the health care system to access gender-affirming treatment (hormonal and/or surgical treatment), or for other unrelated mental or physical health reasons.

Language can and has been used to "discriminate, abuse, marginalize, disrupt, and destabilize individuals and communities".<sup>5</sup> Language used by medical institutions can serve to further marginalise trans individuals and can infer pathology.<sup>5</sup>

Misgendering occurs when a person is addressed or described using language (name, pronouns or title) that does not match their gender identity.<sup>6</sup>

Trans individuals experience significant stigma which can be considered at three levels within society: structural, interpersonal, and individual.<sup>7</sup> Structural stigma can be defined as "intentional and unintentional policies and practices that result in restricted opportunities for stigmatized people".<sup>7</sup> Structural stigma contributes to the lack of education provided on trans health within medical training.<sup>7</sup> This leaves doctors ill equipped to care for trans patients. Many lack knowledge of trans health, do not know how to refer to trans competent providers, and may also be uncertain how to respectfully address and refer to trans individuals. This uncertainty can lead to ambivalence around providing care and patient acceptance thereof.<sup>7</sup> Trans patients are often left to



educate health care providers and guide appropriate referral pathways.<sup>8</sup> Nursing, allied health and administrative staff also rarely receive training in this area.

Limited collection of gender identity data contributes to structural stigma. The Center of Excellence for Transgender Health at the University of California, San Francisco defines gender identity data as chosen name, chosen pronouns, current gender identity, and sex listed on original birth certificate.<sup>9</sup> Incomplete collection of such data due to processes within medical institutions and clinical software limitations can render trans individuals invisible to policy makers.<sup>10</sup> Within medical institutions, bathrooms and ward allocation based on sex assigned at birth can also contribute to stigma experienced within the health care system for trans individuals. Documentation policies and policies regarding change in gender marker contribute to structural stigma. Trans individuals may be prevented from changing the gender marker within their medical record because of difficulties created by these policies and accessibility of the information. Interpersonal stigma is a direct or enacted form of stigma, experienced from one person to another.<sup>11</sup> This can vary between health care settings. Individual stigma (or self-stigma) is the internalisation of interpersonal stigma and structural stigma, and affects an individual's psychological processes and perception of self. It can create anxious anticipation of stigma and avoidance of situations that may be stigmatising for the individual.<sup>11</sup>

Experiences of stigma can directly impact mental health, affecting the individual's ability to cope with external stressors and reducing resilience.<sup>12</sup> Negative experiences can affect engagement in treatment, with almost one-third of young gender diverse Australians (aged 14–25 years) choosing not to see a mental health professional because of past negative experience.<sup>6</sup> Experiences of stigma within health care settings can lead to a delay in seeking medical care and can increase the need for emergency treatment.<sup>13</sup>

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Research in the United States has indicated that 25% of trans individuals postponed care because of discrimination.<sup>13</sup> Similarly, in Australia, 29% of trans young people avoided medical services due to gender non-conformity.<sup>6</sup> Fear of stigma can delay initial presentation and affect the likelihood of attending for follow-up.

### Gender marker change within medical record systems

Many medical record systems record sex and do not record gender. It is recognised that sex as well as gender is relevant and both are often required information in a medical setting. A patient's sex may affect differential diagnoses and investigations of a clinical presentation, population-based screening recommendations and the normal values for laboratory testing.

Gender markers often appear on hospital records, patient stickers (used on notes and prescriptions in some settings) and on request forms, making them visible to patients, clinicians, administration staff and allied health practitioners. The gender marker recorded within a medical record may also be reflected in correspondence sent to the patient and may affect the title used in the addressing of that letter. Correspondence from a medical institution with an incorrect title or gender marker can inadvertently reveal an individual's gender history to those who might otherwise not be aware of it, leading to an invasion of privacy and putting the trans individual at "risk of discrimination and violence".<sup>14</sup>

Gender marker change policies within medical institutions can be considered from a legal and human rights perspective. In 2013, the *Sex Discrimination Act 1984* (Cth) was updated to include protection from discrimination on the grounds of gender identity, sexual orientation and intersex status. In July 2013, the Australian Government released guidelines on the recognition of sex and gender<sup>2</sup> to complement these legal protections, which apply to all Australian Government departments. The guidelines recommend that one of the following be recognised as sufficient evidence to amend gender: a statement from a registered medical practitioner or registered psychologist which specifies identified gender; a valid Australian travel document; or a state or territory birth certificate which specifies identified gender. Documentation from the relevant jurisdiction's registry of births, deaths and marriages recognising a change of sex and/or gender is also considered sufficient evidence. The guidelines state that "Sex reassignment surgery and/or hormone therapy are not prerequisites for the recognition of a change in gender in Australian Government records".<sup>2</sup> The guidelines recommend that attention should be placed on titles in forms and public records and that clear, accessible information on how sex and/or gender information can be changed on personal records should be made available.<sup>2</sup> Current

legal recognition of sex and legal change in sex and gender differ between states and territories.

The Yogyakarta Principles, initially written in 2006 and extended in 2017, clarify international human rights law in relation to gender identity.<sup>15</sup> When sex or gender is registered, the principles recommend that states:

- i. Ensure a quick, transparent, and accessible mechanism that legally recognises and affirms each person's self-defined gender identity;
- ii. Make available a multiplicity of gender marker options;
- iii. Ensure that no eligibility criteria, such as medical or psychological interventions, a psycho-medical diagnosis ... shall be a prerequisite to change one's name, legal sex or gender.<sup>15</sup>

### Conclusion

Trans individuals face significant social disadvantage and stigma which can adversely affect their health. Interactions with health care systems can perpetuate stigma, driving further disadvantage and vulnerability. Policies on gender marker change within medical record systems in children and adults should be developed in consultation with relevant stakeholders. Such policies should align with best practice, and should be clearly visible to patients, hospital clinicians, hospital administration staff and general practitioners. Limitations of electronic medical record systems, which display sex only and which are unable to collect, store and then display both sex assigned at birth and gender identity markers, should be addressed. Health care providers should be educated on trans health and should have access to guidelines and referral pathways to ensure that appropriate care and referrals are provided to all trans patients. Administration staff should be educated to ensure that they appropriately communicate with and refer to trans individuals. Structural policies in health care settings regarding bathrooms and ward allocations should be considered to ensure that appropriate facilities for trans individuals are provided. The impact of stigma and misgendering on the physical and mental health of trans individuals is profound and lasting. Structural policies often go against principles of non-maleficence by either directly or indirectly worsening the health of trans individuals. Significant change is required to improve health equity for trans individuals.

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