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December 16, 2019

VIA EMAIL: Patty.Hajdu@parl.gc.ca

The Honourable Patty Hajdu
Minister of Health
House of Commons
Ottawa, Ontario
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To The Honourable Patty Hajdu:

Re: Ministerial Mandate Letter

Egale Canada would like to extend our sincere congratulations on your appointment as Minister of Health. We believe that this Ministry has tremendous potential to positively impact the health of LGBTQI2S persons in Canada.

Egale Canada is the only national LGBTQI2S organization in Canada. We work to improve the lives of LGBTQI2S persons and to enhance the global response to LGBTQI2S issues by informing public policy, inspiring cultural change, and promoting human rights and inclusion through research, education, and community engagement.

On December 09, 2019, you stated that: "…Canadians are rightfully proud of their public health care system. It is something that we all know is the first point of pride for Canadians, whether they travel abroad or people visit Canada."[1] We trust that you are mindful of the fact that the public health care system has also been, and continues to be, a source of discrimination and inequality for sexual and gender minorities in Canada.

We are encouraged by this Government's commitment to work with the LGBTQI2S community. As I am sure you are aware, in November 2017, the Prime Minister formally apologized for nearly four decades of "systemic oppression, criminalization, and violence"[2] against the LGBTQI2S community in Canada. During this apology, we were relieved to hear that the Prime Minister understands that "there is still much work to do"[3] to eradicate LGBTQI2S discrimination in Canada.

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[1] Canada, Parliament, House of Commons Debates, *Edited Hansard – Number* 002, 43rd Parliament, 1st Sess, Vol 132 (06 December 2019) online: House of Commons <https://www.ourcommons.ca/DocumentViewer/en/43-1/house/sitting-2/hansard#Int-10724946>.
[2] Prime Minister Justin Trudeau, "Remarks by Prime Minister Trudeau to apologize to LGBTQ2 Canadians", 28 November 2017, online: Government of Canada <https://pm.gc.ca/en/news/speeches/2017/11/28/remarks-prime-minister-justin-trudeau-apologize-lgbtq2-canadians>.
[3] *Ibid*.

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We applaud the Prime Minister's decision to disclose *mandate letters* to the public. We agree that by doing so, this Government has taken steps to ensure "the most open and accessible government possible." [4] We have read your *mandate letter* and are encouraged by the following priorities that have been identified by the Prime Minister:

i. Work with the Canadian Institutes of Health Research to integrate sex- and gender-based analyses, as well as diversity analyses, to ensure research takes diversity factors into account to improve women's health care.
ii. Provide additional funding to the Canadian Institutes of Health Research so that it can create academic research grants for studies on race, diversity and gender.
iii. Create a National Institute for Women's Health Research, with the support of the Minister for Women and Gender Equality and Rural Economic Development, that will bring together experts in women's health from across the country to tackle persistent gaps in research and care using an intersectional approach.
iv. In order to realize and protect women's sexual and reproductive health rights, ensure that Canadians have access to the full suite of reproductive services and medications across the country.
v. Work with the Minister of Diversity and Inclusion and Youth, and in partnership with Canadian Blood Services and Héma-Québec, to build on existing progress to implement a behaviour-based model of donation that eliminates the blood ban for men who have sex with other men.

We believe that human rights protection requires constant and diligent supervision, and we feel responsible to ensure that the Government of Canada does not waver from the commitments made in November 2017, nor those stated in your *mandate letter*.

We are deeply concerned that your portfolio does not expressly note the unique challenges faced by LGBTQI2S persons in accessing healthcare in Canada. It is widely documented that sexual and gender minorities experience stigma and discrimination within the healthcare system. This problem is exasperated by insufficient training for health professionals in population-specific health considerations. We urge you to improve cultural competency training for health professionals to ensure positive health outcomes for LGBTQI2S persons in Canada.

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[4] Prime Minister Justin Trudeau, "Prime Minister releases new ministerial mandate letters", 28 August 2018, online: Government of Canada <https://pm.gc.ca/en/news/news-releases/2018/08/28/prime-minister-releases-new-ministerial-mandate-letters>.

Further, noticeably absent in your *mandate letter* is any discussion regarding the human rights of intersex persons. Everyone in Canada – including intersex persons – have a right to bodily integrity, human dignity and equality before the law. We implore of you to work with the Ministry of Justice and Attorney General of Canada to repeal section 268(3)(a) of the *Criminal Code*, which states:

> surgical procedure[s]…performed, by a person duly qualified by provincial law to practice medicine, for the benefit of the physical health of the person or for the purpose of that person having normal reproductive functions or normal sexual appearance or function [emphasis added] …[5]

The effect of the above provision is to allow medical practitioners to undertake nonconsensual, cosmetic surgeries on intersex infants and children for the purpose of preserving a "normal sexual appearance" based on cis-normative assumptions about medically "normal" bodies. These are unnecessary medical procedures that have long-term physical and mental health consequences for children, and are not in the best interests of the child.

The *Canadian Bar Association* has advocated on behalf of amending s. 268(3)(a) of the *Criminal Code*:

> A growing number of health professionals, medical associations and countries are taking the position that medically unnecessary genital normalizing surgeries on intersex infants and children should be prohibited until the child is able to participate in the decision. Canada should be a leader and protect the rights of intersex children by amending section 268 of the Criminal Code to prohibit these surgeries until the child is able to meaningfully participate in the decision [emphasis added].
>
> […]
>
> Yet normalizing surgery to make children born with ambiguous genitalia look more typically male or female has been standard practice for decades. The aim has been to spare children from teasing, rejection and stigmatization and to reduce parental concern of social rejection. However well-intentioned, it is increasingly clear that these surgeries may be more harmful than

[5] *Criminal Code*, RSC 1985, c C-46, s 268(3)(a).

> beneficial. There are significant risks of physical harm as early genital normalizing surgeries can interfere with nerves, reduce genital sensation and sexual function, leave scar tissue and create other lifelong health issues.[6]

Further, we trust that you will speak openly and candidly about the negative impact of conversion therapy in Canada – a practice that the former Minister of Health, and current Minister of Justice and Attorney General of Canada, have both described as a "cruel exercise that can lead to life-long trauma".[7] We stress that the dynamics of Canadian federalism must not be a barrier to human rights protection for LGBTQI2S persons.

There is also the issue of health care for transgender individuals. We are deeply concerned that your mandate letter did not specifically address the widespread and pervasive discrimination that transgender individuals experience in healthcare settings. According to the *Canadian Bar Association* ("CBA"):

> Over half of trans individuals report negative experiences in hospital emergency departments and over one-third report a negative interaction with their family physician. Half of trans individuals report discomfort discussing trans-related issues with their family physician. So pervasive is this discrimination, that over 20% of trans individuals report avoiding emergency departments fearing a negative interaction.[8]

The CBA has advocated for the "increase [of] sensitivity and competency training in trans health care issues for providers and fund training for GCS [gender confirming surgeries] surgeries".[9] We strongly urge the Government of Canada to make trans-competent health care a priority.

Egale Canada has developed a **National Action Plan** for a more LGBTQI2S inclusive Canada. We urge the Ministry of Health to consider some of the **recommendations** contained in this plan, namely:

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[6] Salimah Walji-Shivji and Dorianne Mullin on behalf of the Canadian Bar Association, "Letter to The Honourable Bill Casey, M.P., re. LGBTQI2S Health in Canada", *Canadian Bar Association*, 01 May 2019, online: CBA <http://www.cba.org/CMSPages/GetFile.aspx?guid=da2fdb2a-11ec-4420-9121-842e93db093d>.

[7] *Letter to The Honourable Doug Schweitzer, M.L.A., Minister of Justice and Solicitor General, Government of Alberta*, from The Honourable David Lametti, The Honourable Ginette Petitpas Taylor and Randy Boissonnault, 21 June 2019 online: SCRIBD <https://www.scribd.com/document/416329772/Letter-to-Alberta-Justice-Minister-Doug-Schweitzer>.

[8] *Supra*, re. LGBTQI2S Health in Canada, note 6.

[9] *Ibid*.

- **Implement** a universal, national gender affirming healthcare strategy to support trans and gender diverse communities across Canada, including a commitment to care that is:
    - Competent, transparent, and accessible within a reasonable time period;
    - Accessible without a mental health diagnosis of gender dysphoria;
    - Comprehensive in covering all gender-affirming care expenses.
- **Immediately** dismantle the discriminatory practices related to blood donation for men who have sex with men (MSM) and trans people.
- **Collect** essential data for LGBTQI2S health inclusion by offering a range of gender identity options in the upcoming census, Canadian Community Health Survey (CCHS) and the General Social Survey (GSS) -- a key priority within the federal government's National Gender Based Violence strategy. Data collection must include a range of options that includes non-binary identities so that population level data can be adequately gathered on the LGBTQI2S community related to hate crimes and violence.
- **Mandate** a nationwide ban on conversion therapy in Canada, and any other practice by the health care system or religious community that intends to change someone's sexual orientation, gender identity, or gender expression.
- **Recognize** queer family planning and diverse family structures by training healthcare professionals, including IVF clinics, on inclusive patient care that eschews heteronormative and cis-normative assumptions about family planning and fertility.
- **Mandate** inclusion training for all regulated service providers to ensure that they have the knowledge and resources to adequately serve and respond to the needs of LGBTQI2S people.
- **Ensure** that evaluation and data collection within the healthcare community respectfully includes attraction, gender identity and gender expression as well as disaggregated data speaking to the intersections of identity. It is important that the structure of these database(s) takes into account the sensitive and confidential nature of this information, and implement strict procedures around privacy and terms of use when sharing data among healthcare practitioners and institutions.

Egale Canada has developed an expertise on LGBTQI2S human rights issues. Since our inception in 1986, we have intervened in 13 applications before the Supreme Court of Canada and more than 25 equality-seeking legal proceedings in lower courts.

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We believe strongly in equality and inclusivity for all Canadians, and would kindly request to be consulted on the LGBTQI2S issues that fall within your mandate as Minister of Health. **Please take this letter as a formal request for a meeting with you, and members of your Ministry, to discuss Egale Canada's National Action Plan for a more LGBTQI2S inclusive Canada.**

We hope to work closely with you, and your Ministry, on the issues that matter deeply to us all.

Yours very truly,

Helen Kennedy
Executive Director
Egale Canada

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