

A Bill for an Act relating to Lowering the Age of Mental Health Confidentiality.

To be enacted by the YMCA Victoria Youth Parliament;

## **Lowering the Age of Mental Health Confidentiality Bill 2021**

A Bill for an Act to establish a reduced age of confidentiality in mental health support for young individuals. This Bill will focus on an improved approach to confidentiality regulations which will allow for more transparency, better conversation and higher trust between young people and mental health practitioners. This Bill was created with a purpose to encourage young people to seek out mental health treatment and destigmatise young people reaching out for support.

The conversation around mental health is often diminished in favour of physical health and this Bill aims to give young people an avenue for treatment free of judgement and concern. This Bill aims to create a review board for mental health practitioner complaints and create a charter for the rights of young people to mental health confidentiality, seeking to improve young people's mental health and encourage them to seek out help.

## **PART I—Preliminary**

### **Clause 1 Purpose**

The main purposes of this Act are—

- (a) to improve confidentiality between mental health practitioners and individuals between 16 to 18 years old;
- (b) to increase transparency for 16 to 18 year olds who choose to seek mental health services;
- (c) to establish a board which can provide an avenue for dispute resolutions against mental health practitioners or a practice.

### **Clause 2 Commencement**

This Bill shall commence upon receiving assent from the Youth Governor of Victoria.

### **Clause 3 Definitions**

In this Bill, we define the following to mean—

- (a) **confidentiality** means the set of rules that limits access to information discussed between an individual and their healthcare practitioners;
- (b) **breaching confidentiality** means to disclose the private information given to a practitioner in confidence to a third party without the permission of the individual;
- (c) **mental health practitioner** means a professional who is trained to evaluate an individual's mental health and offer services to improve it. This includes but is not limited to—
  - (i) mental health nurses;
  - (ii) occupational therapists;
  - (iii) psychologists;
  - (iv) psychiatrists;
  - (v) general practitioners;
  - (vi) social workers;
- (d) **the Board** means the group of stakeholders who make up the Mental Health Complaints and Review Board designed to review and enforce complaints against mental health practitioners;
- (e) **evaluation** means an official inspection of an organisation's confidentiality practices, by the board.

## **Part II—Establishment**

- Clause 4 Lowering the age of confidentiality in Victoria to 16**
- 4.1 The age of confidentiality shall be lowered to the age of 16 in Victoria.
- 4.2 This law shall affect all mental health practitioners.
- Clause 5 Exceptions allowing for the breaching of confidentiality**
- 5.1 The notion of confidentiality can be broken by mental health practitioners if the practitioner believes an individual is at harm to themselves or others.
- 5.2 For the breaking of confidentiality an individual must show signs of the following—
- (a) threatening physical harm to themselves;
  - (b) threatening physical harm to others;
  - (c) showing signs of violence or immense distress to society as a whole.
- Clause 6 Charter for young people’s mental health confidentiality rights**
- 6.1 Individuals between the ages of 16 and 18 shall be made aware of their rights to confidentiality before seeking mental health treatment.
- 6.2 Prior to receiving mental health treatment individuals aged under 16 must be advised of policies surrounding breaching confidentiality before seeking mental health treatment.
- Clause 7 Establishing a Youth Mental Health Complaints and Review Board**
- 7.1 The Board shall be established and contain members from each of the following—
- (a) Department of Health and Human Services;
  - (b) Department of Education;
  - (c) Beyond Blue;
  - (d) Headspace;
  - (e) Kids Helpline.
- 7.2 The Board shall have the right to review any complaints lodged against a mental health practitioner.
- 7.3 The Board shall also have the right to enforce penalties against a mental health practitioner who has unjustly breached confidentiality.
- 7.4 The Board shall conduct random evaluations of mental health practitioners and practices to ensure that confidentiality is being upheld.

**Clause 8 Penalties for the breaching of confidentiality**

- 8.1 If a mental health practitioner breaches the notion of confidentiality for the first time without just cause they shall incur a fine of five penalty units in line with the **Sentencing Act 1991**.
- 8.2 If a mental health practitioner breaches the notion of confidentiality for the second time without just cause they shall incur an additional fine of 10 penalty units in line with the **Sentencing Act 1991**. They shall also receive a one month practitioner suspension.
- 8.3 If a mental health practitioner breaches the notion of confidentiality for the third time without just cause they will have their mental health practitioner license revoked and shall not be able to practice going forward.