

13 April 2012

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Senate Legal and Constitutional Affairs Committee
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To Whom It May Concern,

**Submission to Senate Inquiry:
Marriage Equality Amendment Bill 2010**

The Australian Psychological Society (APS) welcomes the opportunity to make a submission to the Senate on the Marriage Equality Amendment Bill 2010.

A key goal of the APS is to actively contribute psychological knowledge for the promotion and enhancement of community wellbeing. Psychology in the Public Interest is the section of the APS dedicated to the communication and application of psychological knowledge to enhance community wellbeing and promote equitable and just treatment of all segments of society.

The APS has no interests or affiliations relating to the subject of the consultation and the representations submitted, other than our concern that the Australian Government be well-informed and effective in its strategies.

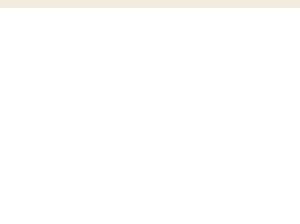
Yours sincerely,

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Submission to Senate Inquiry: Marriage Equality Amendment Bill 2010

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This submission was prepared for the Australian Psychological Society by the APS Public Interest team (Ms Heather Gridley, Ms Emma Sampson and Dr Julie Morsillo), with assistance from the *APS Gay and Lesbian Issues in Psychology Interest Group*, including: Dr Sharon Dane, Mr Graeme Kane, Dr Winnifred Louis, Mr Paul Martin, Dr Damien Riggs, and Dr Liz Short.



1. Overview

The Australian Psychological Society (APS) welcomes the opportunity to make a submission to the Senate Inquiry on the Marriage Equality Amendment Bill 2010.

The Australian Psychological Society (APS) is the premier professional association for psychologists in Australia, representing more than 20,000 members. Psychology is a discipline that systematically addresses the many facets of human experience and functioning at individual, family and societal levels. Psychology covers many highly specialised areas, but all psychologists share foundational training in human development and the constructs of healthy functioning.

A range of professional Colleges and Interest Groups within the APS reflect the Society's commitment to investigating the concerns of, and promoting equity for, vulnerable groups such as Indigenous Australians, sexuality and gender diverse people, minority cultures, older people, children, adolescents and families. Psychology in the Public Interest is the section of the APS dedicated to the communication and application of psychological knowledge to enhance community wellbeing and promote equitable and just treatment of all segments of society.

The APS is in a strong position to provide input into this Inquiry from a psychological perspective. For almost a decade, psychologists have been active in advocating for the mental health needs and human rights of lesbian, gay, bisexual and transgender (LGBT) Australians.

The APS has also compiled a comprehensive literature review providing an overview and summary of the main bodies of research about parenting by lesbian, gay, bisexual and transgender (LGBT) people, as well as relevant information about the wider family studies field within which this research is situated, and background information on the Australian context. This can be viewed on our website:

http://www.psychology.org.au/publications/statements/lgbt_families/

2. Recommendations

The APS supports full marriage equality for all people, regardless of their sex, sexual orientation or gender identity, on human rights, health and wellbeing grounds. Psychological research provides no evidence that would justify legal discrimination against same-sex partners and their families, but there is ample evidence that such discrimination contributes significantly to

the risk of mental ill-health among gay, lesbian, bisexual and sex and/or gender diverse people, especially young people. The APS therefore specifically recommends that:

- *as proposed in the Marriage Equality Amendment Bill 2010, the Australian Government amend the Marriage Act 1961 and the Marriage Amendment Act 2004 to remove discrimination based on sexual orientation and gender*
- *the Australian, State and Territory governments repeal all measures that deny same-sex couples, including those transgender and intersex individuals who are deemed to be in a same-sex relationship according to Australian law, the right to civil marriage, and enact laws to provide full marriage equality to same-sex couples*
- *the Australian Government extend full recognition to legally married same-sex couples, and accord them all of the rights, benefits, and responsibilities that it accords to legally married heterosexual couples*
- *the Australian, State and Territory governments strengthen Anti-Discrimination laws to protect all Australians from discrimination on the basis of sexual orientation or gender identity.*

3. Psychology, the APS and the commitment to human rights

The APS Code of Ethics reflects psychologists' responsibilities which include principles of respect for the rights and dignity of people and peoples, propriety, and integrity. The Code is complemented by sets of ethical guidelines, including guidelines on the provision of psychological services to Aboriginal and Torres Strait Islander people, lesbian, gay and bisexual clients, and older adults, amongst others. *The Universal Declaration of Ethical Principles for Psychologists* (2008) explicitly recognises that Psychology as a science and a profession functions within the context of human society, and as such has responsibilities to society that include using psychological knowledge to improve the condition of individuals, families, groups, communities, and society.

The APS Code of Ethics is explicit on the subject of human rights, justice and unfair discrimination.

General Principle A: Respect for the rights and dignity of people and peoples

Psychologists regard people as intrinsically valuable and respect their rights, including the right to autonomy and justice. Psychologists engage in conduct

which promotes equity and the protection of people's human rights, legal rights, and moral rights. They respect the dignity of all people and peoples.

Psychologists demonstrate their respect for people by acknowledging their legal rights and moral rights, their dignity and right to participate in decisions affecting their lives. They recognise the importance of people's privacy and confidentiality, and physical and personal integrity, and recognise the power they hold over people when practising as psychologists. They have a high regard for the diversity and uniqueness of people and their right to linguistically and culturally appropriate services. Psychologists acknowledge people's right to be treated fairly without discrimination or favouritism, and they endeavour to ensure that all people have reasonable and fair access to psychological services and share in the benefits that the practice of psychology can offer.

Ethical Standards A.1. Justice

A.1.1. Psychologists avoid discriminating unfairly against people on the basis of age, religion, sexuality, ethnicity, gender, disability, or any other basis proscribed by law.

A.1.2. Psychologists demonstrate an understanding of the consequences for people of unfair discrimination and stereotyping related to their age, religion, sexuality, ethnicity, gender, or disability.

A.1.3. Psychologists assist their clients to address unfair discrimination or prejudice that is directed against the clients.

Psychologists work to understand important issues facing society and to enhance community wellbeing by improving the social and environmental conditions that impact on wellbeing. The APS as a professional body has raised specific concerns and contributed to debates around human rights, including the rights of clients receiving psychological services, and of marginalised groups in society, and has highlighted the established links between human rights, material circumstances and psychological health.

Human rights violations can have profound and long-lasting negative impacts on individuals, couples, families and communities. In fact, such violations can cause debilitating distress and serious mental illness, and can also engender a pervasive sense of fear and insecurity which should not exist in an open democratic society.

4. Current Context

The APS is concerned that lesbian, gay, bisexual and sex and/or gender diverse (LGBSGD) Australians continue to experience discrimination, both in family-related legislation and in social attitudes. A related concern is that a disproportionate number of lesbian, gay, bisexual, and sex and/or gender diverse (LGBSGD) people experience poorer health and wellbeing outcomes than their non-LGBSGD peers in a range of areas, particularly mental health and suicidality. These experiences and poor outcomes are found in all age groups. For example, ABS data (2007) indicates that LGBTI people are 4 times more likely to have ever been homeless, twice as likely to have a high/very high level of psychological distress, almost 3 times as likely to have had suicidal thoughts, and 4 times as likely to have attempted suicide.

In August 2011, the American Psychological Association (APA) unanimously adopted a resolution calling for the legalisation of same-sex marriage, on the basis of clear evidence showing the mental health benefits of marriage, and the harm caused by social exclusion and discrimination arising from not having the choice to marry. More information on the APA resolution and the psychological research that underpins it is available on the APA website:

- [APA calls for marriage equality](#)
- [Background: Marriage equality and LGTI mental health](#)

In December 2011, the APS Board endorsed this APA resolution on health and wellbeing grounds. For the full statement, see <http://www.psychology.org.au/Newsandupdates/22Dec2011/>

APS President Professor Simon Crowe, said at the time: "Decades of psychological research provides the evidence linking marriage to mental health benefits, and highlighting the harm to individuals' mental health of social exclusion. The APS supports the full recognition of same-sex relationships, on the basis of this evidence."

Dr Damien Riggs, convenor of the APS Gay and Lesbian Issues in Psychology Interest Group, said: "Marriage discrimination has a flow-on effect on same-sex attracted Australians, their loved ones, and the wider community. Psychologists must work to ensure that all Australians are supported to achieve positive mental health and full social inclusion."

Psychological research by Hatzenbuehler and colleagues (2010) confirms these points, with the finding that same-sex couples in US states that ban same-sex marriage experience higher levels of diagnosable disorders and greater levels of social stress than do their counterparts in states with no such ban, or their heterosexual counterparts (further details below).

5. The benefits of being legally married for same-sex couples

The APA Resolution took as its starting place long established evidence that individuals in marriages experience lower levels of depression than do individuals in relationships who are not married (Brown, 2000). With these findings in mind, and given that same-sex couples in both Australia and most US states cannot currently legally marry, this prohibition places individuals in such couples by default at greater risk of depression and relationship instability.

The state of Massachusetts legalised marriage for same-sex couples in 2004. A study by Ramos, Goldberg, and Badgett (2009) examined the experiences of 558 same-sex attracted individuals legally married in that state. In response to how they felt as a result of their marriage:

- 72% reported that they felt more committed to their partners
- 69% stated that since being married they felt more accepted by their communities
- 62% reported that their family was more accepting of their partner.
- Of those with children, 93% agreed, or somewhat agreed, that their children were happier or better off as a result.

6. The health impacts of legislation that bans same-sex marriage

Evidence from the United States now suggests that legislation that bans same-sex marriage, and the associated expression of inaccurate, negative, demeaning and hostile viewpoints about same-sex attracted people and their families, contributes directly to an increase in psychiatric morbidity among same-sex attracted individuals living in affected areas. In a 2-wave study, Hatzenbuehler et al. (2010) were able to control for natural variation in psychiatric illness incidence rates via comparisons between states where legislation was passed versus those where no legislation was passed, and between same-sex attracted and heterosexual individuals (totalling 34,000 participants). The substantive increases in psychiatric incidences rates between time 1 and time 2 were only found amongst same-sex attracted individuals who resided in states where legislation banning same-sex marriage was passed, with findings showing:

- 36.6% increase in mood disorders
- 248.2% increase in generalised anxiety disorder
- 41.9% increase in alcohol use disorders
- a 36.3% increase in psychiatric comorbidity (i.e. more than one psychiatric disorder).

The increased occurrence of psychiatric morbidity that meets diagnostic classification, as per the Hatzenbuehler et al. (2010) study, does not represent minor or temporary changes in distress levels. Rather, they represent highly disabling health conditions that have far-reaching implications for the individual, their families and friends, and society.

Further compounding the negative impact of a lack of relationship recognition upon same-sex couples is the fact that psychological research has long shown the deleterious mental health impact of social exclusion upon same-sex attracted individuals – what Meyer (2000) terms the ‘minority stress hypothesis’. In other words, in a social context in which discrimination occurs in the lives of same-sex attracted individuals, and which for a significant number leads to negative mental health outcomes, for those individuals in couple relationships the mental health risks may be exacerbated by non-recognition of their relationships.

Yet despite these negative psychological consequences of the denial of relationship recognition to same-sex couples, research continues to find that such couples do as well as, if not on some measures better than, their heterosexual counterparts. For example, previous longitudinal research by Kurdek (2004) and more recent longitudinal research by Balsam and colleagues (2008) suggests that same-sex couples experience high levels of relationship quality and satisfaction when compared to heterosexual couples.

6.1 Evidence from Australia on the relationship between denied access to marriage and poorer psychological wellbeing

In 2004, an amendment to the Marriage Act banned same-sex marriage in Australia. Two large-scale studies examining the importance of relationship recognition for same-sex attracted Australians were recently conducted through the School of Psychology at the University of Queensland. The marriage-related findings are presented below.

Not So Private Lives (Dane, Masser, MacDonald, & Duck, 2010) was a national study involving 2032 same-sex attracted individuals (18-82 years of age) living in metropolitan and rural Australia. The survey focused on a number of issues relating to the lives of sexual minority people.

Findings pertaining to the desire to marry show that:

- 54.7% preferred marriage for their existing or future same-sex relationship over other types of legal recognition, including civil unions.

- the numbers preferring to marry were even greater among younger people (e.g., 63% of those under 30 yrs) and those in a same-sex relationship living with young children (74.7–80.8%).
- 77.8% of those currently in an Australian state or municipal civil union reported that they preferred to marry.

Participants who reported having a regular same-sex partner were asked about the extent to which they felt others valued their relationship when compared with heterosexual relationships.

- Although the majority felt their parents and heterosexual friends viewed their same-sex relationship as being of equal value relative to heterosexual de facto relationships, only a third (33.6%) felt that their parents (and only 45.6% their heterosexual friends) equated the value of their same-sex relationship with that of heterosexual marriages.
- This statistically significant discrepancy was even more pronounced among those who wished to marry. Importantly, the more individuals perceived that others placed less value on their relationship relative to heterosexual relationships, the significantly lower their reported levels of psychological well-being.

A separate experimental study titled *The Psychology of Same-Sex Marriage Opposition: A Preliminary Findings Report* (Barlow, Dane, Techakesari, & Stork-Brett, 2012) examined the psychological impact of Australian media messages relating to same-sex marriage. Results based on a sample of 810 participants (age range 18-77; 514 same-sex attracted, 296 heterosexual) indicate that same-sex attracted participants who were randomly exposed to recent articles opposing (relative to supporting) same-sex marriage were statistically significantly:

- more likely to report feeling negative and depressed (e.g., they were more likely to agree that they felt distressed, upset, guilty, scared, afraid, ashamed and nervous).
- more likely to report that they felt lonely
- more likely to report that they felt weak and powerless
- less likely to report that they were feeling happy or positive

Additionally, same-sex attracted Australians who reported having frequent contact with people who actively opposed same-sex marriage were statistically significantly more likely to:

- report self-hatred
- believe that a healthy relationship was not a possibility for them
- expect to be physically or verbally assaulted on the basis of their sexual orientation
- feel unsatisfied with their life and hopeless about the future

By contrast, participants who had frequent contact with people who actively supported same-sex marriage had greater satisfaction with their lives, more hope about their romantic relationships, and less self-hatred.

6.2 Evidence on the impact of marriage equality discourses on the wellbeing of same-sex attracted young Australians

Further evidence of the increasing salience in Australia over the past fifteen years of marriage equality discourses and debates as a source of both oppression and growing hope among same-sex attracted and gender-questioning (SSAGQ) young people comes from three large online studies of this group (*Writing Themselves In* - Hillier, Dempsey et al., 1998; Hillier, Jones et al., 2010; Hillier, Turner, & Mitchell, 2005). Hillier et al's research documents the shift in social acceptance of same-sex marriage (and parenthood) and the impacts of this shift on young same-sex attracted people. For example, in 1998, young people were told, and believed, that they would be childless, and marriage was rarely raised. Only one young woman mentioned wanting a child, while still accepting that she would never be able to marry. In 2004, young people were beginning to talk about having children and had many ideas about how they would manage it. Marriage was not mentioned often, though some did include thoughts of marriage in their narratives. But of the 3134 young people who completed the 2010 survey, around twenty percent mentioned marriage and/or children. There had been no reference to marriage and children in the survey and these responses were unsolicited. There were some examples of negative impacts of the discourse of marriage exclusion at which young people expressed anger or sadness. But many young people expressed the desire to be like everyone else and have the 'Australian dream with all the trimmings'.

This research highlights how shifts in support of the direction of equity, visibility and support for sexual difference (including for marriage equality), enhance the wellbeing of SSAGQ young people, who are increasingly seeing marriage and children as possibilities in their lives. In addition, Hillier et al. (2010) observed that the recent discourse of same sex marriage and gay parenting is helping some young people to resist homophobic religious messages, and is ultimately helping some to maintain their faith.

In addition to the likely benefits of amending marriage legislation to remove discrimination on the basis of gender and sexuality for young same-sex attracted people themselves, there are obvious benefits to children and young people who have same-sex parents who are currently not able to marry (and hence, who can experience their families as being

stigmatized/marked out as less acceptable and valued than families in which parents are able to marry).

The APS believes that removing all discrimination from the Marriage Act to ensure that all people, regardless of their sex, sexual orientation or gender identity have the opportunity to marry will promote acceptance and the celebration of diversity, particularly among young people.

7. Summary and conclusion

Psychological evidence points to the mental health benefits of marriage and the harm to same-sex couples and their families caused by social exclusion and discrimination arising from not having the choice to marry.

This evidence includes:

- There is no scientific basis for an assertion that lesbian, gay, bisexual, and transgender persons are less fit to marry or to become parents of healthy and well-adjusted children than heterosexual people (Kurdek, 2004; Peplau & Fingerhut, 2007).
- The denial of marriage rights to same-sex couples can adversely affect their health and well-being (Barlow, Dane, Techakesari, & Stork-Brett, 2012; Dane, Masser, MacDonald, & Duck, 2010; Hatzenbuehler, McLaughlin, Keyes, & Hasin, 2010; Herdt & Kertzner, 2006).
- Beyond the negative effect of marriage restrictions for LGBTI individuals, research indicates that the families of origin and allies of sexual minorities may suffer from some of the same serious negative physical and mental health consequences of discrimination experienced by their loved ones (Arm, Horne, & Levitt, 2009; Horne, Rostosky, & Riggle, 2011).
- Being denied the right to marry reinforces the stigma associated with a minority sexual identity, and can particularly undermine the healthy development of a well-adjusted emotional and social attachment style among adolescents and young adults (Herdt & Boxer, 1993; Herdt & Kertzner, 2006; Leonard et al., 2012).

Psychological research thus provides no evidence that would justify legal discrimination against same-sex partners and their families, but there is ample evidence that such discrimination contributes significantly to the risk of mental ill-health among gay, lesbian, bisexual and sex and/or gender diverse people, especially young people.

Recognising marriage equality is about fairness, social inclusion, and individual and community well-being. To have Australian legislation be consistent with (rather than flouting) human rights, non-discrimination and equal opportunity principles and obligations is a significant aim.

In conclusion, we draw attention to Mildred Loving's 2007 very moving statement in support of marriage equality in the USA:

http://www.freedomtomarry.org/page/-/files/pdfs/mildred_loving-statement.pdf

8. Recommendations

The APS supports full marriage equality for all people, regardless of their sex, sexual orientation or gender identity, on human rights, health and wellbeing grounds, and specifically recommends that:

- as proposed in the Marriage Equality Amendment Bill 2010, the Australian Government amend provisions of the Marriage Act 1961 and the Marriage Amendment Act 2004 to remove discrimination based on sexual orientation and gender
- the Australian, State and Territory governments repeal all measures that deny same-sex couples, including those transgender and intersex individuals who are deemed to be in a same-sex relationship according to Australian law, the right to civil marriage, and enact laws to provide full marriage equality to same-sex couples
- the Australian Government extend full recognition to legally married same-sex couples, and accord them all of the rights, benefits, and responsibilities that it accords to legally married heterosexual couples
- the Australian, State and Territory governments strengthen Anti-Discrimination laws to protect all Australians from discrimination on the basis of sexual orientation or gender identity.

9. References

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Appendix

Supporting evidence

Attached (below) is a brief summary of the key literature and scientific evidence drawn upon by the APA in its August 2011 resolution in support of marriage equality, that was endorsed by APS in December 2011.

In August 2011, the American Psychological Association's Council of Representatives voted 157-0 to adopt the *Resolution on Marriage Equality for Same-Sex Couples*

<http://www.apa.org/about/governance/council/policy/same-sex.aspx>

Explained in more accessible form at

<http://www.apa.org/about/gr/issues/lgbt/marriage-equality.pdf>, the

Resolution draws attention to the mounting body of psychological evidence demonstrating the harmful effects of social exclusion upon same-sex attracted people in regards to relationship recognition.

As the APA resolution would suggest, and the APS endorsement confirms, it is the role of psychologists and psychological researchers to ensure that all couples can be supported to enjoy full social inclusion and positive mental health. The research summarized below would suggest that one significant factor in achieving this is relationship recognition on par with that accorded to heterosexual relationships.

Key References (annotated)

Balsam, K. F., Beauchaine, T. P., Rothblum, E. D. & Solomon, S. E. (2008). Three-year follow-up of same-sex couples who had civil unions in Vermont, same-sex couples not in civil unions, and heterosexual married couples. *Developmental Psychology*[®], 44, 102-116.

"Despite the lack of differences between same-sex couples in civil unions and those not in civil unions, our data indicated a significant difference in rates of relationship termination. Same-sex couples not in civil unions were more likely to have ended their relationships than same-sex couples in civil unions or heterosexual married couples... Of interest, we found that same-sex couples reported more positive relationship quality and less conflict than heterosexual married couples on nearly all of the measures included in the study. This result is similar to results found in some prior studies of same-sex couples. For example, Kurdek's (2004) longitudinal research comparing same-sex couples in cohabiting relationships and heterosexual married couples over time used a wide variety of relationship measures, including psychological adjustment, personality traits, relationship styles, conflict

resolution, and social support. Kurdek concluded that same-sex couples fared better than heterosexual married couples on 76% of all variables. Gottman et al. (2003), in a study of physiological and behavioral observations of couples in a laboratory, found that same-sex couples showed less negative affect, belligerence, whining, and fear/tension and showed greater affection, humor, and joy/excitement than the heterosexual married couples" (p. 112-113).

Brown, S. L. (2000). The effect of union type on psychological well-being: Depression among cohabitators versus marrieds. *Journal of Health and Social Behavior*, 41, 241-255.

This paper analyses data from both waves of the National Survey of Families and Households to evaluate the effect of union type (i.e., cohabitation versus marriage) on depression. Cohabitators report higher levels of depression than their married counterparts, net of sociodemographic factors. The greater depression characterizing cohabitators is primarily due to their higher relationship instability relative to marrieds. Cohabitators' reports of relationship instability are about 25 percent higher than marrieds' reports. High levels of relationship instability are especially detrimental for cohabitators who have been in their union for a long period of time. Additionally, cohabitators' depression scores are exacerbated by the presence of biological and step children, whereas marrieds' depression scores are impervious to children. Longitudinal analyses that correct for selection bias confirm that the lower levels of well-being characterizing cohabitators are not due to the types of people who choose to cohabit.

Hatzenbuehler, M. L., McLaughlin, K. A., Keyes, K. M., & Hasin, D. S. (2010). The impact of institutional discrimination on psychiatric disorders in lesbian, gay, and bisexual populations: A prospective study. *American Journal of Public Health*, 100, 452-459.
For details see page 7 of this submission.

Kurdek, L. (2004). Are gay and lesbian cohabiting couples *really* different from heterosexual married couples? *Journal of Marriage and Family*, 66, 880-900.

Both partners from gay and lesbian cohabiting couples without children were compared longitudinally with both partners from heterosexual married couples with children (N at first assessment = 80 gay, 53 lesbian, and 80 heterosexual married couples) on variables from 5 domains indicative of relationship health. For 50% of the comparisons, gay and lesbian partners did not differ from heterosexual partners. Seventy-eight percent of the

comparisons on which differences were found indicated that gay or lesbian partners functioned better than heterosexual partners did.

Meyer, I. H. (2003). Prejudice, social stress, and mental health in lesbian, gay, and bisexual populations: Conceptual issues and research evidence. *Psychological Bulletin*, 129, 674-697.

In this article the author reviews research evidence on the prevalence of mental disorders in lesbians, gay men, and bisexuals (LGBs) and shows, using meta-analyses, that LGBs have a higher prevalence of mental disorders than heterosexuals. The author offers a conceptual framework for understanding this excess in prevalence of disorder in terms of *minority stress*—explaining that stigma, prejudice, and discrimination create a hostile and stressful social environment that causes mental health problems. The model describes stress processes, including the experience of prejudice events, expectations of rejection, hiding and concealing, internalized homophobia, and ameliorative coping processes.

Rostosky, S. S., Riggle, E. D. B., & Horne, S. G. (2009). Marriage amendments and psychological distress in lesbian, gay, and bisexual (LGB) adults. *Journal of Counseling Psychology*, 56, 56-66.

An online survey of lesbian, gay, and bisexual (LGB) adults (N = 1,552) examined minority stress (I. H. Meyer, 2003) and psychological distress following the 2006 general election in which constitutional amendments to limit marriage to 1 man and 1 woman were on the ballot in 9 states. Following the November election, participants living in states that passed a marriage amendment reported significantly more minority stress (i.e., exposure to negative media messages and negative conversations, negative amendment-related affect, and LGB activism) and higher levels of psychological distress (negative affect, stress, and depressive symptoms) than participants living in the other states. Multiple hierarchical regression analyses revealed significant positive main effects of minority stress factors and state ballot status on psychological distress. In addition, the association between amendment-related affect and psychological distress was significantly higher in states that had passed a marriage amendment compared with other states.

Along with this submission, the APS draws the Committee's attention to a 2006 article by an APS member on the psychological wellbeing of same-sex attracted people in our community: *Same-Sex attraction: Finding a space in the Australian scene*:

<http://www.psychology.org.au/publications/inpsych/samesex/>