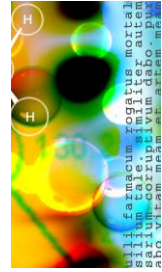


medicinewithmorality.org.au

Australian Doctors concerned with the drift
of ethics away from moral absolutes

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Submission to the

The Expert Panel on Religious Freedom

Department of the Prime Minister and Cabinet
PO Box 6500
Canberra ACT 2600
Australia

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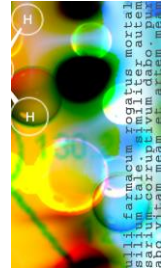
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Killing must never be seen as a solution

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12 February 2018

The Expert Panel on Religious Freedom
C/O Department of the Prime Minister and Cabinet
PO Box 6500
Canberra ACT 2600
Australia

Religious Freedom Review Submission

This submission is on behalf of the doctors of [Medicine with Morality](#) and [Conscience in Medicine](#). Our concerns relate to the outworkings of practice in relation to our beliefs, sometimes with a specific “religious” background but which can just be a belief in a “higher order” of ethical principles.

The medical profession has traditionally been bound by such ethical principles classically represented by “Hippocratic medicine” and in modern times by the [World Medical Association Code of Medical Ethics](#) adopted in 1949 and most recently revised in 2006. Significantly this was based on the [Declaration of Geneva](#) 1948 adopted by the World Medical Association (WMA) founded 1947.

The main trigger for these declarations and the formation of the WMA were the medical trials at Nuremberg in 1947.

It was out of this maelstrom of perverted human rights and ethics with its resultant atrocities that the nations of the world met together in 1948 to ensure that these atrocities would never again be repeated and that the [Universal Declaration of Human Rights](#) (UDHR) was formed and speaks to us so clearly today e.g. in article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, *to manifest his religion or belief in teaching, practice, worship and observance.* <http://www.un.org/en/documents/udhr/>

Similarly, article 18 1 of the *International Covenant on Civil and Political Rights* 1976 (ICCPR) declares

Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, *to manifest his religion or belief in worship, observance, practice and teaching.*
<http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

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particularly noting that Article 4 within this covenant states this to be a *non-derogable right* – one that cannot be overridden even in national emergency.

It is significant that in 1996 a conference titled “Medicine and Conscience” was held in Nuremberg – on the fiftieth anniversary of the medical trials. They concluded that the removal of conscience from medicine created an amoral medical force and that *Medicine can be distorted by state; physicians must be above state-decreed strategies*. (Dr Deirdre Little, President of *Obstetricians Who Respect the Hippocratic Oath*).

We are aware of the dangers of playing the “Nazi Card”. But there must be no apology for the re-statement of history on which we learn and have learned the lessons of history.

We submit that liberty of conscience in practice is critical for individual doctors as it lies at the very heart of our integrity and self-identity. It is conscience that must compel doctors to refuse to participate in treatments they believe to be un-ethical or that they consider not to be in the best interests of patients.

We submit that it is not enough for doctors to simply be providers of medical services on consumer or state demand providing all that is legal whether or not it is consistent with their ethical base. To sacrifice conscience and be concerned only with service provision is to destroy the heart and soul of medicine.

To coerce someone to *actually do or perform* something that conflicts with their belief system and which they believe to be morally wrong flies in the face of the international declarations. In illustration, the self-proclaimed “right” for a person to be killed must always be subservient to the right of the doctor not to kill or be complicit in such act.

Relevant to this discussion is that on 31 Jan, 2018 the Ontario Superior Court of Justice Divisional Court have [unanimously ruled](#) that, notwithstanding religious convictions to the contrary, Ontario physicians *can be forced* to help patients access any and all services and procedures, including euthanasia and assisted suicide.

Commenting on the decision, Project Advisor [Professor Roger Trigg](#) of Oxford said, “once the perceived interests of the State override the moral conscience of individuals – and indeed of professionals – particularly in matters of life and death, then we are treading a slippery slope to totalitarianism.” <http://consciencelaws.org/blog/?p=8013>

The medical profession faces many challenges for the future but the conscience challenge – belief in practice – is fundamental. If we damage the relationship between the doctor and patient where patient health is our primary goal – our *raison d’etre* – then all of medicine will have been damaged.

We plead with the review committee to uphold the UDHR and ICCPR Articles as quoted above.

We are aware of moves to negate the influence of these and other declarations and we believe it is so important for this nation, in considering freedom of religion and belief in practice, to uphold these most fundamental rights in this nation.

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Finally, it is worthy of note that Australian Charters (Appendix A) in the ACT and Victoria, while both have modified international charters to effectively exclude abortion, nevertheless both have enshrined *freedom of belief and practice* – clearly regarding these rights as fundamental.

Appendix A: Australian Charters

[Charter of Human Rights and Responsibilities Act 2006](#) Victoria:

- (1) Every person has the right to freedom of thought, conscience, religion and belief, including—
 - (a) the freedom to have or to adopt a religion or belief of his or her choice; and
 - (b) the freedom to demonstrate his or her religion or belief in worship, observance, practice and teaching, either individually or as part of a community, in public or in private.
- (2) A person must not be coerced or restrained in a way that limits his or her freedom to have or adopt a religion or belief in worship, observance, practice or teaching. <http://www.legislation.vic.gov.au/.../06-043a.pdf>
- (48) Savings provision: *Nothing in this Charter affects any law applicable to abortion or child destruction,*

[ACT Human Rights Act 2004](#)

14 Freedom of thought, conscience, religion and belief

- (1) Everyone has the right to freedom of thought, conscience and religion. This right includes—
 - (a) the freedom to have or to adopt a religion or belief of his or her choice; and
 - (b) the freedom to demonstrate his or her religion or belief in worship, observance, practice and teaching, either individually or as part of a community and whether in public or private.
- (2) No-one may be coerced in a way that would limit his or her freedom to have or adopt a religion or belief in worship, observance, practice or teaching.

9 Right to life

- (1) Everyone has the right to life. In particular, no-one may be arbitrarily deprived of life.
- (2) *This section applies to a person from the time of birth.*

Appendix B: other Declarations

From the *Hippocratic Oath*. Original, written 400 BC Translated by Francis Adams:

I will follow that system of regimen which, according to my ability and judgment, I consider for the benefit of my patients, and abstain from whatever is deleterious and mischievous. I will give no deadly medicine to any one if asked, nor suggest any such counsel; and in like manner I will not give to a woman a pessary to produce abortion. With purity and with holiness I will pass my life and practice my Art. <http://classics.mit.edu/Hippocrates/hippooath.html>

From the *Declaration of Geneva* adopted by the WMA (2006) and ratified by the AMA (2006):

I will practise my profession with conscience and dignity;
I will maintain, by all the means in my power, the honour and the noble traditions of the medical profession
I will maintain the utmost respect for human life <http://ama.com.au/node/2468>

From *Medicine with Morality* 2006:

We assert our right and obligation to practice medicine according to our conscience. We will not engage in or facilitate procedures or practices that we believe are inconsistent with the above manifesto. www.medicinewithmorality.org.au

From the *Manhattan Declaration* 2009:

Because we honor justice and the common good, we will not comply with any edict that purports to compel our institutions to participate in abortions, embryo destructive research, assisted suicide and euthanasia, or any other anti-life act <http://www.manhattandeclaration.org>

From *Conscience in Medicine* 2010:

We, the undersigned, seek to maintain the ethical independence of the medical profession and the liberty to practice medicine according to our conscience.

We believe it is in the patient's best interests for doctors to adhere to a code of ethics that is independent of any standards set by governments or practices that may be permitted by legislation.

We believe that as health professionals we have a duty to educate and inform fully so that best management decisions can be made and that such may include a refusal to comply with patient demand where such is inconsistent with good medical practice.

We further believe there are times when the patient request cannot be complied with because it conflicts with our integrity and ethical stance.

It is our right and obligation to practice medicine according to our conscience. We will not engage in or facilitate procedures or practices that we believe are in conflict with our conscience.

<http://www.conscienceinmedicine.net.au/the-declaration/>

From the *Canberra Declaration* 2010:

We will not comply with any directive that compels us to participate in or facilitate abortion, embryo-destructive research, assisted suicide, euthanasia, or any other act that involves the intentional taking of innocent human life. <http://www.canberradeclaration.org.au/>

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