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

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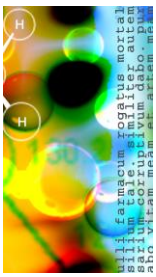

Submission on Religious Freedom Bills

30 September 2019

Dear Attorney-General Christian Porter

The doctors of Medicine with Morality and Conscience in Medicine have concerns regarding these bills.

These concerns fit into three main areas relating to medicine

- freedom of belief
- freedom of speech
- freedom to practice according to conscience.

Although not matters of specifically religious belief these relate to a general freedom of *belief* as per Article 18[i] of the ICCPR and consistent with international codes of medical ethics.

Doctors have been subject to complaints made to anti-discrimination tribunals and Medical Board of Australia as a result of statements made regarding matters of belief in medicine particularly as they relate to public health.

Most commonly these matters of belief relate to

- sexual behaviour
- sexually transmitted diseases
- same-sex marriage and parenting
- anal intercourse including its recommendation as a contraceptive measure
- abortion including sex-selective abortion
- transgenders including early "treatment" medically and surgically, the risks of inclusive facilities, and dangers in sport and other activities

and the right to make informative medical statements on health consequences of these matters for the purpose of prevention or management of disease.

Doctors are well placed because of their education and experience to comment on issues of public health including relevant behavioural morality and therefore at times need to be a voice in the public square as well as in medical communications. To be most effective it is sometimes needful and appropriate to use social media as a readily accessible source of information.

Such a voice can also be used in submissions to parliamentary enquiries as in the 47 submissions made by this group of doctors.

It has even been known for doctors – in the absence of any public statement of belief – to be questioned as to belief before any actual medical consultation has taken place and then if the answer is not acceptable to the would-be patient, a threat made to report the doctor as not being fit to practice. Even that the doctor is "hateful" because of the belief even when no emotion is expressed.

Belief systems on their own should not be subject to accusations of vilification or intolerance or hate.

Belief systems on their own should not play a part in acceptance for occupational training in a profession.

It was as a result of a submission in 2012 on "same-sex" marriage that a complaint was laid against one of us (myself) to the Medical Board of Australia – dismissed without a hearing – but in more recent times it would more likely to have been accusations of "hate speech" or "vilification" or "conduct that offends, insults or intimidates" to various tribunals.

Fear of legal process hindering expression of any view that might be judged as offensive would seriously inhibit scientific discussion and rational expression. Even the presentation of studies that demonstrate different conclusions to another being promoted can be labelled offensive. The effective silencing of debate and dissent has particular significance in matters pertaining to public health.

Within the medical practice itself the right to tell truth – as a part of informed consent – is critical to good practice and must not be subject to legislation as is also the right to refuse to perform procedures that are against the practitioner's conscience or believed to be not in the patient's best interests.

This highlights the contrast between simply being providers of services on demand from consumers or third parties providing all that is legal whether or not it is consistent with our ethical base. To sacrifice conscience and be concerned only with service provision is to destroy the heart of medicine.
Governments may legislate to permit certain practices or procedures but governments must never force doctors to violate their conscience by compulsory engagement in such practices or procedures.

It may be argued that the latter matters are more appropriately governed by state legislation, nevertheless they should be matters of national concern when the practice of medicine is at risk e.g. when state governments compel participation of medical personnel in procedures that conflict with conscience as in S8 of the Victorian abortion law that mandates referral for abortion.

We believe it is appropriate and important that Federal Government override state legislation when it comes to compelling participation in what are believed to be unethical treatments and procedures.

Another example of overreach by state is when legislation seeks to forbid appropriate management in the medical consultation itself e.g. to forbid counselling actually requested by the patient seeking to change sexual orientation or identification, such counselling being labelled as "conversion" therapy and abuse. To fail to explore patient motivation and expectations in this instance would be a serious and unconscionable breach of contract and abuse of privilege. State has no right to interfere by imposing its ideological beliefs in the medical consultation.

It is significant that in 1996 a conference titled "Medicine and Conscience" was held in Nuremberg on the fiftieth anniversary of the medical trials. It was 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*).*

Relevant to this discussion is that on 31 Jan, 2018 the Ontario Superior Court of Justice Divisional Court 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."

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.
Recent allegations of being unfit for practice have been based on the doctor's refusal to comply with what is believed to be unethical, also the expression of medical views particularly involving public health, and even simply holding such views. It is to be hoped for the future of society and the role of the medical profession in society that legislation will be drafted to protect this future.

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[i] Article 18 International Covenant on Civil and Political Rights 16 December 1966.
1. 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.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.