Submission into Victorian Charter of Human Rights Legislation

Submitted by:

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To:

Mr Edward O’Donohue, MLC Chairperson Scrutiny of Acts and Regulations Committee.
charter.review@parliament.vic.gov.au

Dear Mr O’Donohue,

I am writing a submission regarding the Victorian Charter of Human Rights which is currently before review.

Whilst I do really not see the need for a Charter at all, I am particularly concerned about section 48 which says:

48. Savings provision
Nothing in this Charter affects any law applicable to abortion or child destruction, ...

Through abortion, here blatantly paralleled by the words ‘child destruction’, human rights are definitely infringed both for children and for those who wish to protect them.

This section has allowed the Abortion Bill 2008 to have powers over Human Rights which it should not have had. I specifically refer to Section 8 which states:

Section 8 Obligations of registered health practitioner who has conscientious objection
(1) If a woman requests a registered health practitioner to advise on a proposed abortion, or to perform, direct, authorise or supervise an abortion for that woman, and the practitioner has a conscientious objection to abortion, the practitioner must—
(a) inform the woman that the practitioner has a conscientious objection to abortion; and
(b) refer the woman to another registered health practitioner in the same regulated health profession who the practitioner knows does not have a conscientious objection to abortion.

This section has taken away any right of conscience objection in regard to that issue.

I am a general medical practitioner who for many years has had an interest in adolescent health. I understand that this age group is particularly vulnerable on many levels. I also have spent a number of years as a pastoral worker for a number of medical and dental students studying in Victorian universities. I hold my view on abortion after many years of consideration for the ethics and for those affected by it. I understand that an unwanted pregnancy is deeply disturbing.

I have also been part of a general practice in a growing outer suburban area which has a high proportion of young families. When the Abortion Bill 2008 was introduced, I had to rethink what I was doing. I have a conscientious objection to abortion. According to the law, if someone came in with an unwanted pregnancy and requested an abortion, I was either compelled to refer or otherwise send them to someone who would refer. Neither of these options was acceptable to me. My options became: 1) stop practicing altogether, 2) flout the law or 3) change my area of practice so I would not be subject to the law. Option 1 is not viable when you have a family of 6 children ranging from mid primary to VCE level. Option 2, I am told would result in sanctions by professional bodies involving loss of registration and loss of indemnity. If I was single that may be a viable option but I have a family that is growing up and I would then put my family at social and financial hardship if I was to use this option. I would also find this option difficult as I do respect the functions of government and laws and do my best to abide by the current laws.

My only option then was to change my area of practice. My initial take on this was to move interstate as one friend was doing. But again I have a family and other members did not want to leave extended family and friends. I thought that I could get around the problem by making sure that I did not see any patients who would get pregnant. This meant that I would have to change my practice to no longer see women of child bearing age. In the practice where I worked until last year, I decided not see new patients in this category. My old patients mostly understood my views on abortion. Not seeing new women of child bearing age meant that I could no longer work by myself—such as after hours or a Saturday morning clinic as I had regularly done for years. I then retired from working these shifts as the practice would still have to have someone else on when I was on.

As it happened, a new nursing home opened its doors not far away. Instead of practicing in general practice, I shifted my work to seeing elderly patients. There was such a demand in
this area, that I have now given up standard general practice and changed to visiting aged care facilities and retirement villages.

Of course, I still have many patients wanting to see me and they constantly voice their opinion on that one when I see them on the street. Also, I have had friends who are of similar opinions regarding issues such as abortion who want to also know that their doctor has similar ethical constraints to what they do. They are also worried that if there are only doctors who refer for abortions, and as a consequence, do not have the view that all life is special, then they will be more likely to get treatment which does not take their views into consideration. For example, they may have had antenatal screening which shows an abnormality, and the advice of the doctor is to have an abortion as the child is likely to be deformed. How can they get the advice they need to make the decision that is right for them. This example happens all too often and actually happened to us (my wife and I)—fortunately we did not take the advice offered and went for a subsequent ultrasound which actually showed no problem and we have a happy, healthy child. The friends that I refer to do not want ethical doctors to retire because of wrong legislation. These friends represent not a minority in the population but a significant proportion.

Conscientious objection is also something that is dearly held by politicians in their voting on various legislations, yet Section 48 has allowed this to be swept away for one group of their electorate.

In your review of the Charter, I humbly request that you remove section 48 completely so that all citizens would be allowed to have a conscientious objection.

I look forward to your response on this matter.

Yours sincerely

Dr Rod Stephenson