Mr Edward O’Donohue  
MLC Chairperson  
Scrutiny of Acts and Regulations Committee  
10 June 2011

Dear Mr. O’Donohue

I am writing to you as a concerned Victorian medical student who graduates in December 2011 as a doctor. I am particularly concerned about clause 8 of the Abortion legislations as it threatens doctor and patient autonomy.

There is a misguided belief amongst many, both within and outside the medical profession that the only reason a doctor would refuse a women an abortion would be for religious reasons. This is reflected in the new Abortion Law Reform Bill, which also has the audacity to assume a doctor would only refuse to abort on religious grounds, thus the laws have introduced clauses which states that a doctor must refer a women on to another doctor if they conscientiously object to the abortion or that if there is an emergency, the doctor must perform an abortion. These laws reiterate the ignorance of society who believes contentious objection is the only reason to refuse an abortion. But, there are many other medically based reasons not to perform an abortion.

For one, an abortion procedure carries many risks and a doctor may deem the risks of an abortion to outweigh the possible benefit of an abortion. The doctor would therefore refuse a women an abortion because their medical expertise deems such a procedure to be of more harm then benefit. Thus the new Abortion Law Reform Bill takes away doctor autonomy, by ignorantly presuming a doctor would only ever refuse to abort on the basis of religious beliefs.
On a larger scale the removal of doctor autonomy is contrary to a number of national and international laws and codes of practice including the AMA code of ethics, the Royal Australian College of Nursing, the National Health and Medical Research Council, section 14 of Victoria's Charter of Human Rights and Article 18 of the International Covenant of Civil and Political Rights (Mathieson, 2008). Labour backbencher Christine Campbell summarised it succinctly when she said:

"The doctors should be respected in their professional judgement. Every time somebody goes to a doctor for a particular procedure they assess it based on the health and wellbeing of the person. But this bill removes both their professional judgement and their right to have a conscientious objection to abortion". (2009)

The requirement to refer a patient on to another doctor when a doctor contentiously objects to performing an abortion again assumes the doctor has only made their decision upon religious beliefs not medical evidence. AMA president Dr Dough Travis wrote to Premier John Brumby the following:

The Bill infringes the rights of doctors with a conscientious objection by inserting an active compulsion for a doctor to refer to another doctor who they know does not have a conscientious objection. Respect for a conscientious objection is a fundamental principle in our democratic county, and doctors expect that their rights in this regard will be respected, as for any other citizen.

Compulsory Referral also puts the patient at risk because there is no stipulation in the law as to what sort of doctor the doctor must refer onto. What if there is a scenario in a small, isolated town, where the only other doctor apart from the one who is deemed a conscientious objector is a dermatologist? This puts the patient's health at risk. This puts the referring doctor in an ethically precarious position because they know they are referring their patient to an unqualified doctor for the procedure required. And this puts the doctor the patient was referred to in a precarious position because as the referred doctor because they are then obligated, especially in an isolated community, to perform a procedure they know they are not qualified for, even if they have either have no reasons to believe the abortion should not go ahead or are not a conscientious objector.

The next problem with the laws is the threat to patient autonomy, especially with the law regarding emergency abortions. This law states that in an emergency a doctor must perform
an abortion. But, what happens if a pregnant women, in an emergency situation, does not want to have her pregnancy terminated? Does the doctor say to her, “sorry but I have to perform an abortion on you even if you do not want it because the law states I must and I don’t want to go prison”? And as numerous doctors have noted, delivering a live birth is a much safer option then abortion in the case of emergency.

I beg you to reconsider the Abortion Law Reform, in particular the ant-conscience clause 8 as it fails to protect my basic human right and my rights as a doctor who wishes to first ‘do no harm’.

Kind regards

Bernadette Wilks