

***medicinewithmorality.org.au***

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

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**Submission to**

## **National Human Rights Consultation**

**National Human Rights Consultation Secretariat  
Attorney-General's Department  
National Circuit, Barton ACT 2600**

**by Medicine With Morality**

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## National Human Rights Submission

Medicine With Morality was formed in early 2006 to unite doctors across Australia in response to an increasing drift of medical ethics away from moral absolutes and recently has been involved in defending doctor's liberty of conscience in provision of medical services. Our vision statement reads:

To preserve, in an age of rapid scientific and technological change, traditional medical ethics consistent with absolute values and to preserve the liberty of medical professionals holding these values to practise medicine according to their conscience.

*Medicine With Morality* is not a religious organisation. Doctors of any background can join as long as they agree with the [statement of belief](#) (also as Appendix A) upholding the intrinsic value of human life and which concludes with

*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.*

In considering any possible legislation of human rights in Australia, *Medicine With Morality* has two main interests: the right to life of the unborn child and doctor's liberty of conscience.

### The right to life of the unborn child.

Our belief statement entitled *A Manifesto of Human Life for the 21<sup>st</sup> Century* simply defines human life in terms of its biology i.e. it begins at fertilisation and has intrinsic value until life's natural end.

*We affirm* that human life begins when a cell containing human chromosomes first has the ability to replicate and differentiate into individual tissues, as occurs at fertilisation. The genetic pattern of such a cell is uniquely human and determines its adult characteristics.

*We affirm* that human life has intrinsic value at every stage of life and dependency from its beginning to its natural end and must be protected against experimentation or exploitation.

This statement is consistent with the 1948 Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). This was spelt out by the UN General Assembly on November 20, 1959 when it reaffirmed unanimously and explicitly the UDHR's recognition of the rights of the [child before birth](#) (see Appendix B for excerpt).

*Whereas the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth*

One would think then that any Australian bill of rights would be in line with the above but this has not been so. The ACT and Victoria have both passed bills of rights *specifically excluding abortion* (see appendix C). If the Australian government were to pass a bill of rights consistent with the UDHR then it would be in conflict with the ACT and Victoria. Were it – like ACT and Victoria – to specifically exclude abortion then it would be in conflict with the UDHR.

The doctors of *Medicine With Morality* are acutely aware of the ramifications of such an exclusion with respect to abortion and eugenics in particular and we are irrevocably opposed to any such exclusion. Given the precedents set by ACT and Victoria and the remarkable [statement](#) by the Race Discrimination Commissioner that there is evidence of a growing fundamentalist religious lobby, in areas such as same-sex relationships, stem-cell research and abortion, we are fearful that such exclusions would be both intended and included.

<http://www.abc.net.au/news/stories/2008/09/17/2366511.htm?section=justin>

We reiterate that MWM is not a religious body. We have a traditional ethical view of the sanctity of life and a solid biological foundation. Our concerns are for the future of medicine and the future of society. We are not – as suggested in that same statement above – “pushing those beliefs on the rest of society”, but establishing a sound and safe ethical basis for our society to move into the future.

### **Doctor’s liberty of conscience.**

Our concern with this relates to the demands by consumer groups for “patient rights” with a focus on “medical services” rather than traditional patient care. It seems that sometimes “rights” can extinguish liberties and in this case our concern is that liberty of conscience in practice will suffer. Having such rights entrenched in legislation poses a great risk to the future of medical practice.

The exercise of conscience in medicine is everything. It underlies every aspect of good medical practice, to make good *patient care* our first concern and to *practice medicine safely and effectively*. It is the foundation of *trust, integrity, truthfulness, dependability, compassion and confidentiality*. The exercise of conscience encourages *self-awareness and self-reflection*.

It is conscience that must compel doctors to refuse to participate in treatments they believe to be unethical or that they consider not to be in the best interests of patients. To do otherwise would undermine the very foundation of good medicine.

The liberty to not be involved or complicit in matters considered to be unethical or inadvisable – to have liberty of conscience in medicine – is critical for individual doctors and for the integrity and independence of the medical profession as a whole.

Liberty of conscience is also consistent with the *Universal Declaration of Human Rights* Article 18:

*Everyone has the right to freedom of thought, conscience and religion; this right includes freedom... to manifest his religion or belief in teaching, practice, worship and observance.*

Remarkably the Victorian *Charter of Human Rights and Responsibilities* also includes freedom of thought, conscience and religion, yet did nothing to protect doctor’s right of conscience in the *Abortion Law Reform Act 2008* where conscientious objection was specifically overridden. In the current climate of consumer rights we have no confidence in a national charter being able to protect liberty of conscience either.

**In summary, existing charters of rights in Australia have not upheld fundamental values of right to life or freedom of conscience. We come to the sorry conclusion that in all probability not only would a national charter fail to protect these values but would also work against them.**

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## **Appendix A: Medicine with Morality – a Manifesto of Human Life for the 21<sup>st</sup> Century.**

*We affirm* that human life begins when a cell containing human chromosomes first has the ability to replicate and differentiate into individual tissues, as occurs at fertilisation. The genetic pattern of such a cell is uniquely human and determines its adult characteristics.

*We deny* that any other definition of the beginning of human life is acceptable. We believe this to be a line that must not be crossed.

*We affirm* that human life has intrinsic value at every stage of life and dependency from its beginning to its natural end and must be protected against experimentation or exploitation.

*We deny* that concepts of personhood and self-awareness, being arbitrary and capable of varying definition, are acceptable as indicators of the presence or absence of human life.

*We affirm* further that the human embryo, being human life in the truest sense, has intrinsic value and that the extraction of stem cells from it is unacceptable.

*We deny* that cloning technology is acceptable whether for so-called therapeutic or reproductive purposes. We also deny that fertilisation attempted between human and non-human cells (to create a 'chimera') is acceptable.

*We affirm* from the evidence of many scientists that stem-cell research on adult tissues and other non-embryonic tissues (e.g. umbilical cord) already has proven benefits and safety as well as increasing promise for the future and that research on embryos is not as necessary as other scientists make out.

*We deny* that it is acceptable to do harmful research on human life at any stage regardless of impairment or impending death or to terminate such life before its natural end. We further deny that it is acceptable to do destructive research on so-called 'spare embryos'.

*We affirm* our right – and indeed obligation – to speak for the future of our society. We assert that 'natural' Law is present in the heart of mankind; that this law exhorts us to protect the innocent and helpless and to uphold the sanctity, preciousness and intrinsic value of life at all stages. We further assert that these are eternal and immutable principles.

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.

## **Appendix B: UDHR Recognition of the Child before Birth**

In the Preamble to the UN *Declaration of the Rights of the Child* (1959) there are three consecutive paragraphs that relate to the child before as well as after birth:

Whereas the United Nations has, in the Universal Declaration of Human Rights, proclaimed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Whereas the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth,

Whereas the need for such special safeguards has been stated in the Geneva Declaration of the Rights of the Child of 1924, and recognized in the Universal Declaration of Human Rights and in the statutes of specialized agencies and international organizations concerned with the welfare of children

## **Appendix C:**

### **Victoria: Charter of Human Rights and Responsibilities Act 2006 No. 43/2006**

#### **9. Right to life**

Every person has the right to life and has the right not to be arbitrarily deprived of life.

#### **48. Savings provision** (page 37 of document)

Nothing in this Charter affects any law applicable to abortion or child destruction, whether before or

after the commencement of Part 2.

**ACT: Human Rights Act 2004 A2004-5**

Section 9 (page 5) limits the right to life to “a person from the time of birth”.

**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.

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list of signatories follows