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11th April, 2013

Office of the Minister for Health
Level 22, 50 Lonsdale Street
Melbourne, Victoria, 3000

Office of the Attorney-General
Level 26, 121 Exhibition Street
Melbourne, Victoria, 3000

The President, Dr Stephen Parnis
AMA Victoria House
P.O. Box 21,
Parkville, Victoria, 3052

Dear Hon David Davis, Hon Robert Clark, Dr. Stephen Parnis,

I am writing with a sense of urgency to draw your attention to a glaring flaw in the Victorian Abortion Law Reform Act 2008, one that is allowing unlawful discrimination and resulting in the deaths of innocent human beings. Section 4 of this law states: "A registered medical practitioner may perform an abortion on a woman who is not more than 24 weeks pregnant." This means that a pregnant woman who is less than 24 weeks pregnant can request an abortion for any undisclosed reason whatsoever. This is a fundamentally flawed clause (as is the Human Rights Statement of compatibility filed in respect of this 2008 Bill).

Due to the way it has been worded, section 4 of the Abortion Law permits access to the practice of gender/sex discrimination. In other words the parent(s) is/are being allowed to abort their child/children based solely on their gender preference at the time. Such discrimination is unlawful and violates the Victorian Charter of Human Rights and Responsibilities Act 2006 and the Australian Human Rights Commission Act 1986. It bears worth repeating, the parent(s) can abort as many children as they like until the desired result of the child's gender is achieved. Just one example of this was reported in the Herald Sun in January, 2011. The article was titled 'Parents want right to choose their child's gender' (by Shelley Hadfield

8/1/2011). The story involved the abortion of twin boys because the couple desired a daughter¹. I believe that this practice is illegal in IVF programs (with exceptions only being allowed in rare medically based circumstances).

The Charter of Human Rights and Responsibilities Act 2006 states in sections 9 and 17 (2): “Every person has the right to life and has **the right not to be arbitrarily deprived of life.**” “Every child has the right, **without discrimination**, to such protection as is in his or her best interests and is needed by him or her by reason of being a child.” And the Australian Human Rights Commission Act 1986 in Schedule 3: “*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,**” and “Principle 1: Every child, without any exception whatsoever, shall be entitled to these rights, **without distinction or discrimination** on account of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, whether of himself or of his family.” Note also that section 5 of Charter of the Human Rights and Responsibilities Act 2006 states: “A right or freedom not included in this Charter that arises or is recognised under any other law (including international law, the common law, the Constitution of the Commonwealth and a law of the Commonwealth) must not be taken to be abrogated or limited only because the right or freedom is not included in this Charter or is only partly included.” And the Australian Constitution, section 109: “When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.” In other words, section 48 of the Victorian Charter 2006 cannot be relied upon to make lawful the practice of unlawful discrimination.

I request that this matter receive urgent attention from the Victorian Government to address unlawful discrimination and the needless loss of innocent lives. I also humbly ask the President of AMA Victoria to state the position of the Association with regards to gender selection abortions for natural [that is, for non-IVF] pregnancies and for IVF pregnancies (in light of the gratuitous access to the discriminatory practice of gender selection abortions being permitted by the Victorian Abortion law).

I request a reply in writing to my letter, thank-you. And if possible, I would like this by the 23rd of April, as the Federal Senate inquiry into a proposed Bill on preventing gender selection abortion requires feedback by the 24th. Thank you.

Yours sincerely,
Jeremy Orchard

1. <http://www.adelaidenow.com.au/parents-want-right-to-choose-their-childs-gender/story-e6frea6u-1225983877669>