

Submission to The Senate Finance and Public Administration Committee on the Health Insurance Amendment (Medicare Funding for Certain Types of Abortion) Bill 2013

by Introfish Inc.

(A not-for-profit specialist fishing service serving special needs people in the community; some of whom may not be born unless legislation like this is in place before they are due to be born)

Jeremy Orchard (70 Gateshead Drive, Wantirna South, Victoria 3152), On behalf of Introfish,

I thank the Federal Government for facilitating public comment on this Bill, for which the opportunity to make comment reinforces our principles of democracy. I very strongly support this Bill and this submission will detail some of the reasons (in accordance with the five points of reference) why this proposed legislation should be enacted. As an Australian citizen I believe these comments can be included in the Committee's deliberations and thence the Parliament and public records on this life saving matter.

1. The unacceptability to Australians of the use of Medicare funding for the purpose of gender selection abortions:
 - This discriminatory practice is forbidden by our Constitution. Section 51 of the Constitution states "The Parliament shall, subject to this Constitution, have power to make laws for the **peace, order and good government** of the Commonwealth." And in Section 81 "All revenues or moneys raised or received by the Executive Government of the Commonwealth shall form one Consolidated Revenue Fund, to be appropriated **for the purposes of the Commonwealth in the manner and subject to the charges and liabilities imposed by this Constitution.**" And further, Section 117 **prohibits discrimination** and Section 119 provides **protection against domestic violence** (*emphasis mine*). These articles clearly require the Federal Government to spend its Revenue for the peace, order and good government of the Commonwealth. The provision of a medical service (see section 51, part xxiiiA) that takes the life of a citizen of this nation, and one which is received solely on request and involves no medical/health threat to the mother, does not, in any way whatsoever, uphold the principles of peace, order and good government. Can the taking of innocent unborn human life¹ (a form of domestic violence) sanctioned by the Australian Government be considered an act of peace, order and good government? Can any discriminatory practice sanctioned by the Australian Government be considered an act of peace, order and good government? These actions are the very antithesis of these principles. A medical service funded by Federal Medicare that violates these principles is, in fact, in direct violation of our Constitution.
 - The abhorrent practice of gender selection is a decision based only on social or cultural reasons without regard for the sanctity of life, and therefore without regard for peace and order in our society. Data from recent population surveys shows this practice is deemed unacceptable by Australians.

- Australian Federation of Right to Life Associations survey² contained these questions and results in a national opinion poll of 1,200 Australians:
 - “Do you support abortion for non-medical, that is, financial or social reasons?” Yes= 39%, **No = 51%**, Don’t know = 10%. **A key finding of the research: a slight majority of Australians are opposed to abortion for non-medical, that is, financial or social reasons - which comprise 98% of all abortions performed.**
 - “Do you support Medicare funding for abortions for non-medical, that is, for financial or social reasons?” Yes = 39%, **No = 53%**, Don’t know = 8%. **A key finding of the research: a slight majority of Australians are opposed to abortion for non-medical, that is, financial or social reasons (which comprise 98% of all abortions performed) and 53% are opposed to Medicare funding in these circumstances.**
 - “Would you allow late term abortion after 20 weeks (half way through pregnancy) for non-medical, that is, in cases of financial or emotional stress?” Yes = 12%, **No = 82%**, Don’t know = 6%.
 - “Do you approve Medicare funding of abortion?” Not at all = 37%, up to 13 weeks = 30%, up to 20 weeks = 11%, up to birth = 14%, don’t know = 8%.
 - “Do you believe abortion involves the taking of a human life?” Yes = 54%, No = 34%, Don’t know = 12%;
 - “Do you believe that an unborn child by 20 weeks is a child with human rights?” Yes = 57%, No = 26%, Don’t know = 17%;
 - “Do you believe that abortion can harm a woman’s physical and/or mental health?” Yes = 79%, No = 12%, Don’t know = 9%;
 - “Do you believe that partial birth abortion should be banned?” Yes = 59%, No = 20%, Don’t know = 21%.
 - The results, given the complex issues surrounding it, clearly show that social reasons for abortion are unacceptable and that Medicare funding of same is also unacceptable.

- The School of Population Health, University of Melbourne³: Quoting from a national research study of 2,500 Australians entitled ‘Boy or Girl? Australians think we shouldn’t choose’:
 - “Most Australians do not approve of IVF or abortion for sex-selection purposes, and most do not think a hypothetical blue or pink pill to select the sex of a child should be legal, a new study has found.”
 - “The survey found that **69** per cent of respondents disapproved the use of IVF for sex selection, with the disapproval rate increasing to **80** per cent for sex-selective abortions.”
 - “Opposition to these technologies was grounded in three major concerns: the potential for distorted sex ratios; that sex selection can be an expression of gender bias; and a concern about ‘designer infants’ being created, when parents should be happy with a healthy baby,”

2. The prevalence of gender selection - with preference for a male child - amongst some ethnic groups present in Australia and the recourse to Medicare funded abortions to terminate female children:
 - Data from India and China show this practice (female foeticide /gender selection) is occurring in these places. A very recent 2011 United Nations Report⁴ states the following in its key findings and Conclusions:
 - “Moreover, China and India were the only two countries in the world where female infant mortality was higher than male infant mortality in the 2000s. In China, female disadvantage is particularly concentrated among young infants, and the sex ratio of infant mortality fell from 112 in the 1970s to 76 in the 2000s, that is, from a situation where infant mortality was 12 per cent higher for boys to one where infant mortality was 24 per cent lower for boys than for girls.”
 - “It has long been recognized that young girls in some parts of the world experience higher mortality than boys due to patterns of discriminatory behaviours arising from parental or societal preference for sons. In 1994, the Programme of Action of the International Conference on Population and Development (ICPD) condemned excess mortality among girl children, urging the following: ‘Leaders at all levels of the society must speak out and act forcefully against patterns of gender discrimination within the family, based on preference for sons. One of the aims should be to eliminate excess mortality of girls, wherever such a pattern exists (paragraph 4.17).’ This call was further echoed by the General Assembly at its twenty-seventh special session in 2002: ‘Promote child health and survival and reduce disparities between and within developed and developing countries as quickly as possible, with particular attention to eliminating the pattern of excess and preventable mortality among girl infants and children’ (A/RES/S-27/2. A World Fit for Children. Annex, para. 37.4)’ “
 - This practice violates the fundamental human rights of women and therefore the standards of order and government of any civilized society.
 - Due to the way they have been worded, sections/clauses contained in some of the States and Territories Abortion laws in this country are providing and permitting access to the practice of gender selection abortion. For example, Victoria’s law (Abortion Law Reform Act 2008), section 4 says “A registered medical practitioner may perform an abortion on a woman who is not more than 24 weeks pregnant.” This permits abortion solely on request up to 24 weeks pregnancy. The reasons for the request, which do not have to be disclosed, could be many and varied, but one of them can quite easily be gender selection. Thus access to the practice of gender selection is being made possible (and therefore allowed/permitted) by this Victorian law. In the Australian Capital Territory abortion is treated the same as a medical procedure and is regulated by Part 6 (sections 80, 81, 82, 83 & 84) of the ACT Health Act 1993. This regulation stipulates that only a doctor (section 81) in an approved medical facility (section 82) can perform an abortion. Based on these sections a woman can seek an abortion for any undisclosed reason they wish. Tasmania is proposing similar laws to Victoria and will, if enacted, in like manner, permit access to the practice of gender selection abortion. Laws that

provide the accessibility to gender selection abortion are highly likely being used in this manner. Decisions made by ethnic groups residing in Australia are no doubt heavily influenced by their cultural backgrounds.

- These State and Territory laws have not considered their violation of human rights laws due to the access they provide to discriminatory gender selection abortions and must be repealed or amended. My conclusion on page 5 summarizes this unacceptable situation. One example of such aforementioned violation can be seen by reviewing such laws of Victoria, Australia and of the Constitution. The Victorian 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 the Vic 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.” This also shows that section 48 of the Victorian Charter 2006 cannot be relied upon to make lawful the practice of unlawful discrimination occurring during gender selection abortion.
- Medicare funding of gender selection abortions is not deemed acceptable by Australians and is discussed in part one.

3. The use of Medicare funded gender-selection abortions for the purpose of 'family-balancing':

- Now that we have established (see part two) that some State and Territory laws are providing gratuitous access to the discriminatory practice of gender selection abortions, this allows for any possible outcome to occur. Not only will female/male children be aborted, but multiples of child(ren) can be aborted before any subjective result of the parent(s) is achieved. For example a mother & father decide to balance their family (already having two boys) and have to abort five male unborn children before they give birth to their desired daughter.

- The practice won't stop with gender, for example, multiple embryos e.g. twins, triplets, could also be included. Some parents may decide their current situation does not make it possible for them to give birth, because one of the children is not of the desired gender. As discussed above, Australians (including myself) regard a decision to abort on these grounds as unacceptable. It is totally inconsistent with a civilized society.
4. Support for campaigns by United Nations agencies to end the discriminatory practice of gender-selection through implementing disincentives for gender-selection abortions':
- Any discriminatory practice is profoundly at odds with our fundamental Human Rights and our Constitution, enacted for the peace, order and good government of Australians. The Commonwealth Government is obligated to act upon and correct this situation, including considering (and implementing) the same/similar actions of United Nations agencies, other countries or other agencies. Two examples of peak bodies working towards eliminating this deadly discriminatory practice are the World Health Organisation with its 2011 report entitled "Preventing gender-biased sex selection." Available at the following link: http://whqlibdoc.who.int/publications/2011/9789241501460_eng.pdf and the United Nations Population Fund with its 2011 report entitled "Report of the global meeting of skewed sex ratios at birth: Addressing the Issue and the Way Forward." Available at the following link: <http://www.unfpa.org/public/home/publications/pid/9143>
 - Both of these Organisations call for legislation, amongst other measures, to be enacted to eliminate the discriminatory practice. Australia must eliminate deadly discriminatory gender selection abortion by enacting legislation, including the Health Insurance Amendment (Medicare Funding for Certain Types of Abortion) Bill 2013
5. Concern from medical associations in first world countries about the practice of gender-selection abortion, viz. Canada, USA, UK:
- I have written a letter to the Victorian Health Minister and Victorian Attorney General and copied the President of AMA Victoria (also asking for his comments) to request that my concerns be addressed regarding the unlawful discriminatory practice of gender selection abortion and the needless loss of innocent lives (in light of the gratuitous access to discriminatory gender selection) permitted by the Victorian Abortion Law 2008. I will forward the return correspondence I receive from the Government and AMA Victoria to the Senate inquiry and to the sponsor of the Bill.

Unlawful discrimination is defined in Australian Law (Australian Human Rights Commission Act 1986) as any **acts**, **omissions** or **practices** that are unlawful in matters

relating to sex discrimination, age discrimination, race discrimination, disability discrimination, etcetera. Such matters are further defined/legislated in their respective Federal Discrimination Acts. In addition, this Human Rights Act defines our human rights as our rights and freedoms recognized in the Covenant, declared by the Declarations. One of these very declarations is the Declaration of the Rights of the Child and as such, is a part of our Australian law. One part of it says “*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.” It bears worth repeating, these clauses are Australian law.

We are a nation defined by rules and laws that enable us to live in peace, order, good government and in a civil society – as set out in our Constitution. Every individual/citizen has the responsibility of abiding by the laws of the land. Our elected representatives – Members of Parliament, are duty bound and obligated to uphold these laws and their principles. Not acting to correct this blatant unequivocal unlawful practice of gender/sex discrimination would be a fundamental failure. Consider what it would be like if we were discriminated against resulting in our life being taken? What about our would-be grandchildren or great grandchildren? Will they be unlawfully discriminated against and their lives taken?

Omissions are similarly unlawful (as are acts or practices) when it comes to the matter of unlawful discrimination. Failure (omitting) to correct a discriminatory practice is itself, a contradiction/violation of these Laws. This is no small matter as human lives are at stake; consider the recent anti-bullying laws enacted to save lives.

When our children’s lives can be taken due to unlawful discrimination I fear for the continuation and survival of this society and our nation. We must uphold our Laws and approve this Health Insurance Amendment (Medicare Funding for Certain Types of Abortion) Bill 2013.

References:

1. The Australian Government recognizes the life of unborn human beings/ children as demonstrated/evidenced by many of its programs. Two examples are its “Quit for you. Quit for two” Program and “Smoking Harms Unborn Babies” Program (see attached).
2. “What Australians Really Think About Abortion” A report on comprehensive independent market research conducted by Market Facts (Qld) Pty Ltd, commissioned by the Australian Federation of Right to Life Associations, February 2006.

http://www.righttolife.asn.au/media_releases/20060205.pdf

3. "Boy or Girl? Australians think we shouldn't choose." A study, led by Dr Rebecca Kippen from the School of Population Health at the University of Melbourne, 22/12/2010.
<http://newsroom.melbourne.edu/news/n-436> The study entitled 'Australian attitudes towards sex-selection technology' was published in Fertility and Sterility Volume 95, Issue 5, Pages 1824-1826, April 2011
<http://www.fertstert.org/article/PIIS0015028210028529/abstract>
4. United Nations Department of Economic and Social Affairs, Population Division. Report on "Sex Differentials in Childhood Mortality" 2011. The key findings of the report are on page xvii. Conclusions are on pages 75, 76. The Report is listed on this webpage:
<http://www.un.org/en/development/desa/population/publications/>