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Transcript: Chair of AMA Ethics and Medico-Legal Committee, Dr Chris Moy, ABC Radio Melbourne, *Mornings with Virginia Trioli*, Wednesday, 11 December 2019

Subject: Religious Freedom Legislation

VIRGINIA TRIOLI: Dr Chris Moy is the Chair of the Ethics Committee of the Federal AMA. Dr Moy, good morning.

CHRIS MOY: Good morning, Virginia.

VIRGINIA TRIOLI: Are these changes that your members have been wanting to see?

CHRIS MOY: Look, I'll say straight out that we haven't digested the new exposure draft, and what I would say to you is it's not something that you can just read quickly and then decide on. It's something we'll have to go through very carefully and stress test ...

VIRGINIA TRIOLI: [Talks over] Okay.

CHRIS MOY: ... which is something I would say to the community. The community need to look at this and see how it impacts upon them, because that's what we've done. We're one of the few organisations that actually went out and actually looked at it the first time and saw the issue for patients.

VIRGINIA TRIOLI: And so is it too early for us to have this conversation with you then, Dr Moy?

CHRIS MOY: No. What I would say to you is where we've been - and I think then you'd understand why people need to look at it with a particular eye - so where we were initially is that people - now, understand there's kind of two levels that we're governed by. We're governed by the law, which is this sort of legislation, that's courts and penalties and things like that. But as a doctor, when we sign up, we have this higher standard, which is called professional standards or ethics - which I think you as journalists have as well - and we're governed by that.

Now the problem was that when we first saw this, this law had a very low base, which was basically that we only had to - and we didn't understand what it meant, actually - that a doctor could conscientiously object - that is, if they had a deep objection to something, they could walk away - but the standard was just unjustifiable adverse impact. Now, as a professional standard however, we have a much higher standard, which is that we may be able to conscientiously object if we have a deep view of something - a deep belief in something - but we also have an obligation to the patient in front of us. We actually have to be able to make sure that we don't impede their care, and to facilitate their care, maybe by transferring their care.

And I think the one you have to think about is abortion. If you have termination of pregnancy, and particularly in a rural area for example, a doctor is not allowed to impede care and should in fact facilitate the care of that patient because they need care. And so the problem was that we were going to end up with our professional standards which said, we needed to care for

patients, but we have this really basal sort of legislation which says you could walk away and not have anything to do with it. And this would have major implications, particularly in, say, a remote rural area where you might only have one doctor who could just walk away at that stage and not have any obligations after that.

VIRGINIA TRIOLI: No, that's right, because as I understand it, this second draft, this new exposure, the conscientious objection - so-called - can't be made to the person but can be made to the procedure, and the list of health professionals has been narrowed a bit to only the people we're speaking to today, psychology included as well. So, like we just heard a moment ago from the Federal Secretary of nursing, Annie Butler, could this create a new problem for doctors?

CHRIS MOY: Look, that was the issue for us when we looked at it. We were thinking, we've already got this professional standard and, you know, if we go against it, we misbehave, if we impede somebody's care for example, we would actually go to the Medical Board and potentially get deregistered for example or face penalties. But then you have this other law which actually says, nah, you can just walk away, you don't have any obligations to the patient. And that gets back to the thing that creating law ...

VIRGINIA TRIOLI: [Talks over] That puts you in conflict with your ethical obligation.

CHRIS MOY: Yeah, and it creates a gap between the two. For us, it's inconsistency where it's really not required. And in fact, we actually said, look, just drop this and actually just refer to our professional standards because we have these standards already. And why create law which won't actually have an effect because we already have these standards? And I think for the community again, I get back to the fact that we haven't got our heads around it because we received the second exposure draft yesterday ...

VIRGINIA TRIOLI: Sure.

CHRIS MOY: You need to stress test it. You need to actually look at scenarios such as an individual needing a termination of pregnancy in a remote area with one health provider who suddenly says they have this conscientious objection. If they say nope, well, what is their obligation to that individual, and does that law support what should be good practice, and does it survive the pub test?

VIRGINIA TRIOLI: Yet to be seen. Dr Moy, good to talk to you, thank you.

CHRIS MOY: Pleasure.

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