legcon.sen@aph.gov.au

17 December 2012

Re: Victorian AIDS Council/Gay Men's Health Centre

Exposure Draft of Human Rights and Anti-Discrimination Bill 2012

Submission to the Senate Legal and Constitutional Affairs Committee

The Victorian AIDS Council/Gay Men's Health Centre (VAC/GMHC) appreciates the opportunity to respond to the exposure draft of the Human Rights and Anti-Discrimination Bill 2012 (HRAD) Bill.

About VAC/GMHC

VAC/GMHC leads the fight against HIV/AIDS in Victoria by providing care and support for people living with HIV, health promotion, and advocacy.
We advocate, with partner organisations, to improve health outcomes for sexually and gender diverse communities.
At VAC/GMHC we:

- Deliver HIV prevention, education and health promotion to gay men.
- Provide services, support and advocacy for all people living with HIV.
- Respond to emerging needs and developments in HIV prevention and care.
- Support and promote the health and wellbeing of sexually and gender diverse communities.
- Promote access to our services for these communities.

VAC/GMHC Response to the Exposure Draft of the HRAD Bill

1. VAC/GMHC supports the HRAD Bill and asks the Committee to recommend it be passed in this parliamentary term.

2. VAC/GMHC calls for the removal of religious exemptions to anti-discrimination laws on the basis of sexuality.

3. VAC/GMHC supports the definitions of "Sexual Orientation" and "Relationship Status". We agree that a change of "marital status" to "relationship status" ensures that same sex and other LGBTI relationships are protected from discrimination. Also, the definition of sexual orientation is more inclusive than listing specific orientations.

4. VAC/GMHC recommends the inclusion of "Intersex" as a protected attribute. Intersex Australians should be protected from discrimination through a standalone protected attribute.

5. VAC/GMHC supports the prohibition on discrimination for religious aged care services.

Victorian AIDS Council / Gay Men's Health Centre

www.vicaids.asn.au enquiries@vicaids.asn.au

Peter Knight Centre 6 Claremont Street South Yarra Vic 3141 **P** 03 9865 6700 **F** 03 9826 2700 **Toll Free** 1800 134 840
Positive Living Centre 51 Commercial Road South Yarra Vic 3141 **P** 03 9863 0444 **F** 03 9820 3166 Toll **Free** 1800 622 795
The Centre Clinic Rear 77 Fitzroy Street St Kilda Vic 3182 **P** 03 9525 5866 **F** 03 9525 3673
ABN VAC 52 907 644 835 ABN GMHC 87 652 472 253

6. VAC/GMHC recommends that all Government funded services are prohibited from discriminating, including religious organisations. The draft Bill allows religious organisations to discriminate against LGBTI people (except for aged care providers). This is unacceptable.

7. VAC/GMHC recommends that religious organisations, including in aged care, should not be allowed to discriminate against employees. The draft Bill allows religious organisations to discriminate against LGBTI job applicants and employees, regardless of whether the person can meet the inherent requirements of the job. This is unacceptable.

8. VAC/GMHC recommends that a Commissioner responsible for Sexual Orientation and Gender Identity discrimination be appointed.

9. VAC/GMHC recommends that the *Migration Act 1958* is NOT exempted from the new Bill. This exemption means that Australia's migration laws and associated policies can actively facilitate discrimination against people with disability, including HIV-positive people. The exemption conveys a strong stigmatising message regarding disability, and regarding HIV in particular, which is at odds with the principle of non-discrimination and Australia's commitments under the UN Convention on Rights of People with Disabilities and the 2011 United Nations Political Declaration on HIV/AIDS.

We commend the Australian Government for the addition of sexual orientation and gender identity as protected attributes and the incorporation of these attributes into the new Bill. We oppose, however, the Government's proposal to allow religious organisations to generally discriminate against individuals on the grounds of sexual orientation and gender identity. This exemption has become particularly inappropriate now that many religious organisations are contracted to provide services previously provided by Commonwealth agencies. Religious organisations, like their Commonwealth agency counterparts, should be prohibited from discriminating on the basis of sexual orientation and gender identity.

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