



Public Health Association
AUSTRALIA

Public Health Association of Australia submission on Termination of Pregnancy Bill 2018 (Queensland)

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Preamble

The Public Health Association of Australia

The Public Health Association of Australia (PHAA) is recognised as the principal non-government organisation for public health in Australia working to promote the health and well-being of all Australians. It is the pre-eminent voice for the public's health in Australia.

The PHAA works to ensure that the public's health is improved through sustained and determined efforts of the Board, the National Office, the State and Territory Branches, the Special Interest Groups and members.

The efforts of the PHAA are enhanced by our vision for a healthy Australia and by engaging with like-minded stakeholders in order to build coalitions of interest that influence public opinion, the media, political parties and governments.

Health is a human right, a vital resource for everyday life, and key factor in sustainability. Health equity and inequity do not exist in isolation from the conditions that underpin people's health. The health status of all people is impacted by the social, cultural, political, environmental and economic determinants of health. Specific focus on these determinants is necessary to reduce the unfair and unjust effects of conditions of living that cause poor health and disease. These determinants underpin the strategic direction of the Association.

All members of the Association are committed to better health outcomes based on these principles.

Vision for a healthy population

A healthy region, a healthy nation, healthy people: living in an equitable society underpinned by a well-functioning ecosystem and a healthy environment, improving and promoting health for all.

The reduction of social and health inequities should be an over-arching goal of national policy and recognised as a key measure of our progress as a society. All public health activities and related government policy should be directed towards reducing social and health inequity nationally and, where possible, internationally.

Mission for the Public Health Association of Australia

As the leading national peak body for public health representation and advocacy, to drive better health outcomes through increased knowledge, better access and equity, evidence informed policy and effective population-based practice in public health.



Public Health Association
AUSTRALIA

Introduction

PHAA welcomes the opportunity to provide input to the Inquiry into the Termination of Pregnancy Bill 2018 in Queensland. PHAA believes that abortion is a safe, common medical procedure which should be regulated in the same way as other medical procedures, without additional barriers or conditions. Universal access to safe abortion is an essential element of the provision of high quality reproductive health services for women in Australia. PHAA strongly supports the removal of abortion regulation from criminal law in Australia, and the provision of timely access to affordable early abortion services and emergency contraception to reduce the risks associated with increasing gestation.

The Bill

The primary objective of the Bill is that the termination of pregnancy should be treated as a health issue, not a criminal matter. The Bill proposes to provide for:

- The removal of the termination of pregnancy laws from the Queensland Criminal Code by repealing sections 224, 225 and 226
- A woman who consents to, assists in, or performs a termination on herself does not commit an offence, and
- The creation of a new offence, punishable by up to seven years' imprisonment, for unqualified persons who perform, or assist in performing, a termination. Unqualified means someone who is not a medical practitioner performing a termination, or someone who is not a medical practitioner, nurse, midwife or authorised pharmacist providing assistance in the practice of their respective profession.
- A medical practitioner may perform a lawful termination:
 - On request during the first 22 weeks of pregnancy and
 - After 22 weeks of pregnancy
 - If the medical practitioner considers that the termination should be performed, and has consulted with another medical practitioner who also agrees that the termination should be performed (the matters which a medical practitioner must consider include all relevant medical circumstance, the women's current and future physical, psychological and social circumstances, and the professional standards and guidelines that apply to the medical practitioner in relation to the performance of the termination) or
 - In an emergency circumstance (eg to save the women's life or the life of another unborn child)
- Another medical practitioner, nurse, midwife, pharmacist, Aboriginal and Torres Strait Islander health practitioner or other registered health practitioner prescribed by regulation may assist in a termination of pregnancy performed by a medical practitioner
- A medical practitioner may conscientiously object to the performance of a termination of pregnancy:
 - A medical practitioner is required to disclose their conscientious objection and refer or transfer the woman to another health practitioner or health service provider, and

- This provision does not limit any duty owed by a registered health practitioner to provide a termination of pregnancy service in an emergency circumstance
- Establishment of safe access zones:
 - A safe access zone applies to an area within 150 metres of the entrance of a termination of pregnancy service premises (unless that distance is varied under a regulation by the relevant Minister)
 - New criminal offences for prohibited conduct or restricted recording of a person in, entering or leaving termination services premises (including the publication and distribution of a restricted recording) within the safe access zone.

PHAA Response to the Bill

Lawful terminations – not more than 22 weeks pregnant

Do you believe that terminations should be lawful on request up to 22 weeks?

Yes. PHAA strongly supports the decriminalisation of abortion and removal of abortion from the criminal code, as a step to ensuring safe access to abortion for pregnant persons in Queensland.

Lawful terminations – more than 22 weeks pregnant and with the agreement of two medical practitioners

Do you agree that terminations should be lawful beyond 22 weeks with the agreement of two medical practitioners?

Yes. However, PHAA is concerned about the requirements in the Bill for the medical practitioner to consult with a second medical practitioner after 22 weeks of pregnancy. Where such a consultation is not medically necessary, it may negatively affect access to and the timeliness of a termination procedure because of the time required to obtain the consultation. This is a particular concern for pregnant persons in rural or remote areas, who already face barriers in accessing medical care.

If a particular case presents unusual medical issues, for example in regard to a difficult or late-term pregnancy, then any question of a medical practitioner deciding that it is appropriate to consult with other sources of expertise should be regarded as a normal part of the practitioner providing the best possible medical care. This decision is within the scope of practice of the medical practitioner and should not be further regulated by law.

Lawful terminations – more than 22 weeks pregnant and in an emergency

Do you agree that terminations beyond 22 weeks should be allowed in an emergency?

Yes. PHAA supports Clause 6(3) of the Bill.

Conscientious objection

Do you agree with allowing a health practitioner to conscientiously object to the performance of a termination, except in emergencies?

Yes. Clause 8 provides a balance, ensuring safe access to abortion for pregnant persons in Queensland, whilst respecting the right of individual medical practitioners to refuse to perform this service, based on a

conscientious objection. Since this is an individual issue of conscience, this privilege should only apply to individuals closely involved with the proposed treatment, and should not be available to persons engaged in more distant ancillary services (such as administrative staff or general providers of facilities or services to health centres), nor should it be an entitlement available to corporations or other non-individual entities.

In addition, the acknowledged right of an individual to conscientiously object to personal *participation* in a termination does not mean that they have a right to deny patients access to information about legal health care services. The general right of women to information about, and access to, termination health services should not be compromised by the privilege of conscientious objection which any individual may wish to assert. This is of particular importance to women in rural and remote areas, where denial of information and access may seriously restrict women's options. Accordingly, health professionals with a conscientious objection to abortion care should inform their patients and refer patients to another health professional. Registration, professional and educational bodies should reinforce awareness of these responsibilities.

Safe access zones

Do you agree with the establishment of safe access zones within 150m of the entrance of termination service premises and associated penalties for prohibited conduct or restricted recording?

Yes. Safe access zones are an essential element to ensure access to information and health services. However, PHAA have concerns about Clause 15 of the Bill that puts the burden of proof on police and prosecutors to confirm that the actions of persons outside clinics reasonably deter patients from entering. The Victorian safe access zone laws strictly prohibit conduct such as harassment, intimidation, besetting, threatening, hindering, obstructing or impeding by any means of a person accessing or leaving, or attempting to access or leave a clinic (including obstructing or blocking a footpath or road in a safe access zone without reasonable excuse). Adoption of a similar approach in Queensland is recommended.

Offences for unqualified persons

Do you agree with the proposed offences for unqualified persons who perform or assists with a termination?

Yes.

Other issues

Other comments in relation to this Bill.

The Bill only refers to women who are pregnant, which ignores the fact that people who identify as trans, intersex or non-binary can also become pregnant and need access to safe termination of pregnancy services. To ensure equitable access to termination of pregnancy services, and to avoid creating a grey area under the law with regard to the lawfulness of these services as applied to trans, intersex or non-binary services, PHAA recommends that the Bill be amended to refer to a *person who is pregnant*, rather than only a *woman who is pregnant*.

PHAA recommends mandatory reporting of anonymised data about termination of pregnancy in Queensland. Data on all health services is useful for many purposes including quality control, monitoring of health care service provision and the overall planning of service delivery. Such data is available in the national health systems of New Zealand and the United Kingdom. In particular, experience in Queensland and other jurisdictions indicates that the absence of data as to where services are in demand hinders service delivery and in turn hinders access.

The PHAA appreciates the opportunity to make this submission and the opportunity to contribute to safer abortion services for all women in Queensland.

Further detail on PHAA's position is available from our [submission to the Queensland Law Reform Commission's](#) consultation in February 2018.

Please do not hesitate to contact us should you require additional information or have any queries in relation to this submission.



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References

