



SEXUAL HEALTH SOCIETY  
OF QUEENSLAND

# The Sexual Health Society of Queensland's Submission to the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee inquiry on the Termination of Pregnancy Bill 2018.

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The Sexual Health Society of Queensland (SHSQ) was formed in 1988 and currently has members from across the state. The Society aims to provide high quality educational opportunities for its members and encourages open and strong debate on issues in sexual health in Queensland. The society's objectives are as follows,

1. To advise and advocate for the improvement of all aspects of sexual health in Queensland.
2. To advance scientific, medical and psycho-sexual knowledge in the provision of sexual health services, and the promotion of sexual health in Queensland.
3. To disseminate authoritative information concerning sexual health issues for the community of Queensland.
4. To maintain liaison with similar professional societies and community organisations in Australasia and elsewhere

## The Sexual Health Society of Queensland's position statement on abortion

The Sexual Health Society of Queensland endorses the Declaration of Sexual Rights of the World Association for Sexual Health which includes the rights to autonomy and bodily integrity, to the highest attainable standard of health, including sexual health and to decide whether to have children, the number and spacing of children, and to have the information and the means to do so.<sup>1</sup>

The Society recognises that unplanned pregnancy is a reality of women's lives and believes that every woman has the right to make her own decision about an unplanned pregnancy and should be able to access an abortion if that is her choice. The values of autonomy, informed consent and choice must be respected.

It is important that women experiencing an unplanned pregnancy have access to accurate information and non-directive support about their options - parenting, abortion, adoption or alternative care arrangements.

The Society supports the removal of abortion laws from the Queensland Criminal Code and believes that all women should have access to safe and legal abortion regardless of race, geographical location, gestational stage of pregnancy, or financial situation, and it should not be restricted to those whose life is in danger.

The Society supports efforts to reduce the unplanned pregnancy rate in Australia, including expanding access to contraceptive methods (particularly Long-Acting Reversible Contraceptive methods).

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<sup>1</sup> The WAS Declaration of Sexual Rights was originally proclaimed at the 13th World Congress of Sexology in Valencia, Spain in 1997 and then, in 1999, a revision was approved in Hong Kong by the WAS General Assembly and then reaffirmed in the WAS Declaration: Sexual Health for the Millennium (2008). This revised declaration was approved by the WAS Advisory Council in March 2014. [www.worldsexology.org/resources/declaration-of-sexual-rights/](http://www.worldsexology.org/resources/declaration-of-sexual-rights/). Accessed 18 March 2015.



The society commends the Queensland Law Reform Commission's report on reviewing the legislation regarding termination of pregnancy in Queensland and supports the passing into law of the Termination of Pregnancy Bill 2018.

## RESPONSES TO THE SUBMISSION QUESTIONS

### **Lawful terminations - not more than 22 weeks pregnant**

Clause 5 of the Bill allows that a medical practitioner may perform a termination on a woman who is not more than 22 weeks pregnant. Clause 10 of the Bill provides that a woman who consents to, assists in, or performs a termination on herself does not commit an offence. Clause 22 of the Bill repeals Sections 224 to 226 of the Criminal Code which make it an offence to terminate a pregnancy.

### **Do you agree that terminations should be lawful on request up to 22 weeks?**

**Answer: Yes.**

Explanation: The SHSQ supports the introduction of an 'on request' approach; treating termination of pregnancy as a health matter, rather than a criminal matter. There has been a worldwide trend towards the liberalisation of abortion laws in recent years<sup>1</sup>. Queensland and New South Wales are the only jurisdictions in Australia where abortion is still a crime. Abortion is the only medical procedure that is contained in the Queensland Criminal Code 1899 (sections 224-226), which sets out criminal penalties for doctors providing abortion, those assisting women to access abortion and for women accessing an abortion. The existing practices concerning termination of pregnancy in Queensland and its legal status, impact on women's ability to exercise their reproductive autonomy to access an abortion

The ambiguity of when an abortion is lawful or not and the criminal taint of abortion in Queensland has created an adverse environment regarding information and access for many women, doctors, nurses and counsellors in navigating the practical, social and emotional aspects of abortion<sup>2</sup>

Although the SHSQ recommends that no gestational limits be imposed in legislation, the Society does support this clause and recognises that additional parameters for termination of pregnancy over 22 weeks is a workable compromise.

### **Lawful terminations - more than 22 weeks pregnant and with the agreement of two medical practitioners**

Clause 6(1) of the Bill allows that a medical practitioner may perform a termination on a woman who is more than 22 weeks pregnant 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. Clause 6(2) of the Bill outlines the matters which a medical practitioner must consider when considering whether a termination should be performed - these being all relevant medical circumstances, the woman'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.



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

**Answer: Yes.**

Explanation: It should be noted that the provision of termination of pregnancy services in Queensland is regulated by Queensland Health within the Queensland Health's Clinical Services Capability Framework for Licensed Private Health Facilities and Queensland Health Clinical Guideline for the Therapeutic Termination of Pregnancy in hospitals. The Therapeutic Goods Administration and MS Health who are a part of Marie Stopes International Australia, also play a role in medication abortion. These regulations, along with the professional standards and current practices, will ensure specialist involvement or consultation will occur where it is clinically indicated and appropriate. However, if a legislative requirement is pursued, the SHSQ supports this approach for terminations of pregnancy over 22 weeks gestation.

### **Lawful terminations - more than 22 weeks pregnant and in an emergency**

Clause 6(3) of the Bill allows that a medical practitioner may, in an emergency, perform a termination on a woman who is more than 22 weeks pregnant if the medical practitioner considers it necessary to perform the termination to save the woman's life or the life of another unborn child.

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

**Answer: Yes.**

### **Conscientious objection**

Clause 8 of the Bill allows for a health practitioner to conscientiously object to the performance of a termination. The health practitioner is required to disclose their conscientious objection and refer or transfer the woman to another health practitioner or health service provider. The clause does not limit any duty owed by a registered health practitioner to provide a service in an emergency.

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

**Answer: No**

Explanation: The SHSQ believes the current professional standards on conscientious objection set out by bodies such as Australian Health Practitioner Regulation Agency (AHPRA) and the Australian Medical Association (AMA) provide excellent guidance for practitioners on this issue.<sup>3</sup>

We make particular reference that, the AMA stipulates in their position statement on this issue that; practitioners make every effort in a timely manner to minimise the disruption in the delivery of health care and ensuing burden on colleagues. The doctor needs to take whatever steps are necessary to ensure the patient's access to care is not impeded.<sup>4</sup>

This inclusion of a conscientious objection clause may increase the legitimacy of "opting out" of abortion provision as is evident in other jurisdictions.<sup>5</sup>



Therefore, we do not support the inclusion of a conscientious objection clause in the legislation.

### **Safe access zones**

Clauses 11 to 14 of the Bill allow for the establishment of safe access zones at termination service premises. The safe zone applies to an area within 150 metres of the entrance of the termination service premises, unless a distance is prescribed by regulation. It also establishes penalties for prohibited conduct or restricted recording (including the publication and distribution of a restricted recording) within a safe access zone.

### **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?**

#### **Answer: Yes**

Explanation: The introduction of safe access zones would bring Queensland in line with other jurisdictions such as Victoria, Tasmania and the Australian Capital Territory which have enacted legislation establishing safety zones around abortion provider premises.<sup>6</sup> Human rights law experts support the introduction of safe access zones around abortion provider premises, and state that enacting this legislation does not impose a burden on the implied right to freedom of political communication.<sup>7</sup> The SHSQ currently has approximately 100 members who we strongly believe have the right to be able to enter and leave their work places without being harassed, intimidated, threatened, hindered, obstructed or impeded. This right should be afforded to all, including those working at abortion clinics or GP centres providing abortion services.

### **Offences for unqualified persons**

Clause 25 of the Bill outlines offences for an unqualified person who performs, or assists in performing, a termination on a woman. Both offences have a maximum penalty of 7 years imprisonment.

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

#### **Answer: Yes**

Explanation: It should be noted that despite abortion being in the criminal code stringent regulations for provision are in place currently. In Australia, where abortions are performed by highly qualified health care professionals in very hygienic conditions, a pregnancy termination is one of the safest medical procedures, and complications are rare.<sup>8</sup>

### **Other issues**

We acknowledge that this is a very contentious area of health however; we trust that the committee will not place undue merit to value based or religious opinions in this enquiry. We encourage the committee to relay only on accurate up to date evidence-based information, which is not misleading or emotive in this inquiry process.



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<sup>1</sup> 5. Facts on Induced Abortion Worldwide Published by the Alan Guttmacher Institute, January 2012. Available online at [http://www.guttmacher.org/pubs/fb\\_IAW.html](http://www.guttmacher.org/pubs/fb_IAW.html).

<sup>2</sup> Taskforce on Women and the Criminal Code, Parliament of Queensland, Report of the Taskforce on Women and the Criminal Code (2000) 354.

<sup>3</sup> <https://ama.com.au/position-statement/conscientious-objection-2013> Access online on 23 Jan 2018

<sup>4</sup> <https://ama.com.au/position-statement/conscientious-objection-2013> Accessed online on Feb 12 2018

<sup>5</sup> L Keogh et al, 'Intended and unintended consequences of abortion law reform: perspectives of abortion experts

in Victoria, Australia' (2017) 43 *Journal of Family Planning and Reproductive Health Care*

<sup>6</sup> *Current law in Queensland and other Australian jurisdictions*, information paper published by the Queensland Parliament Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee, June 2016. Online at

<https://www.parliament.qld.gov.au/documents/committees/HCDSDFVPC/2016/AbortionLR-WRC-AB2016/14->

<sup>7</sup> Human Rights Law Centre submission to the Health (Abortion Law Reform) Amendment Bill 2016 at

<https://www.parliament.qld.gov.au/documents/committees/HCDSDFVPC/2016/18-HealthAbortion/submissions/894.pdf>

<sup>8</sup> *Safe Abortion: Technical and Policy Guidance for Health Systems* World Health Organization, Geneva 2003 p12