



Submission to

The Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee

Abortion Law Reform (Woman's Right to Choose) Amendment Bill 2016

June, 2016

Introduction

The Queensland Nurses' Union (QNU) thanks the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee (the Committee) for the opportunity to make a submission to the inquiry into the *Abortion Law Reform (Woman's Right to Choose) Amendment Bill 2016* (the Bill).

Nursing and midwifery is the largest occupational group in Queensland Health (QH) and one of the largest across the Queensland government. The QNU is the principal health union in Queensland covering all categories of workers that make up the nursing workforce including registered nurses (RN), registered midwives, enrolled nurses (EN) and assistants in nursing (AIN) who are employed in the public, private and not-for-profit health sectors including aged care.

Our more than 53,000 members work across a variety of settings from single person operations to large health and non-health institutions, and in a full range of classifications from entry level trainees to senior management. The vast majority of nurses in Queensland are members of the QNU.

Recommendation

The QNU recommends the parliament passes the Bill.

Abortion Law Reform (Women's Right to Choose) Bill 2016

As the major health union in Queensland and a regular voice in the public debate, it is appropriate for the QNU to make a submission to this parliamentary inquiry. We do so in the knowledge that any discussion around abortion is sensitive and can be polarising.

The United Nations (UN) clarified and endorsed women's reproductive rights in Cairo in 1994 at the *International Conference on Population and Development*. This included the rights of women to control their own fertility by deciding the number, timing and spacing of children (United Nations, 1994). The *Beijing Declaration* in 1995 reaffirmed the explicit recognition of the right of all women to control all aspects of their health, in particular their own fertility, as basic to their empowerment (United Nations, 1995).

In recognition of the right to health, the UN (2011) promotes the removal of barriers such as legal or other restrictions that interfere with individual decision-making on health-related issues and access to health services, especially those that only affect women and girls. According to the UN (2011), it is the obligation of the State to remove barriers arising from criminal and other laws and policies affecting sexual and reproductive health in order to ensure the right to health.

It is within the context of women's health and the right of an individual to make decisions about any aspect of their own wellbeing – physical and mental – that the QNU recommends the removal of criminal laws around abortion.

We support the Australian Medical Association's (AMA) (2014) position that women should have access to:

- legal and safe abortion;
- reliable, safe and affordable contraception;
- information and services to support adoption or maintaining a pregnancy; and
- appropriate sexual and reproductive health and information.

The non-availability of pregnancy termination services has been shown to increase maternal morbidity and mortality in population studies (van der Klis, et al., 2002; Chan & Kean, 2003). In addition to access to safe and legal termination services, women should have access to appropriate support to maintain a pregnancy to term and subsequently to raise a child, and access to services for adoption where a woman chooses to continue the pregnancy to term but not to raise (or care for) the child. Access to such services should be on the basis of healthcare need and should not be limited by age, socioeconomic disadvantage or geographical location (AMA, 2014).

As Queensland is one of only two states in Australia¹ where abortion is still a criminal offence we feel it is time for this government to remove sections 224, 225 and 226 of the *Criminal Code 1899 (Qld)* (the Code) so that women and those who assist them are free of prosecution. The Code is not the appropriate mechanism for regulating a medical procedure. Abortion provisions should be removed from this legislation and remain subject to appropriate health regulations.

Women need access to quality health care that does not restrict their capacity to make decisions about their own reproductive health and fertility. To that end we support a broad sexual and reproductive health strategy that includes comprehensive access to education,

¹ The other state is NSW where abortions are unlawful under sections 82-84 of the *Crimes Act 1900*. The interpretation of the law is subject to the 1971 *Levine ruling* from *R v Wald* 3 DCR (NSW) 25.

services and information. Such a strategy would likely contribute to lowering the incidence of unplanned and unwanted pregnancy.

Critical attention must also be paid to improving access to services and information in rural and remote areas, and to ensuring that services, information and targeted programs are available and appropriate for women with limited language literacy, women with disabilities, women from cultural and linguistically diverse backgrounds, and Aboriginal and Torres Strait Islander women (AMA, 2014).

Conscientious Objection

It is the policy of the Australian Nursing and Midwifery Federation² (2015), the peak nursing union body to which the QNU is affiliated, that:

- Nurses and midwives have a right to refuse to participate in procedures which they judge, on strongly held religious, moral and ethical beliefs, to be unacceptable (Australian Nursing and Midwifery Council, Royal College of Nursing Australia, Australian Nursing Federation, 2008, p.6; Australian Nursing and Midwifery Council, Royal College of Nursing Australia, Australian Nursing Federation, 2008, p.7).³
- In exercising their conscientious objection, nurses and midwives must take all reasonable steps to ensure that quality of care, patient safety, and advance care directives are not compromised. Subject to their scope of practice, nurses and midwives in the course of their employment, must not refuse to carry out urgent procedures which are life-saving measures.
- In situations of conscientious objection, the nurse or midwife should express a desire not to participate in that procedure, in advance if possible. The employer must allow the nurse or midwife to leave the area or not participate in the procedure as soon as practicable without any discriminatory or adverse action being taken.
- No discriminatory or adverse action should be taken against any nurse or midwife professing a conscientious objection either in an application for, or during employment.

² Previously the Australian Nursing Federation

³ Value statement 1: Nurses value quality nursing care for all people, and
Value statement 1: Midwives value quality midwifery care for each woman and her infant(s)

Conclusion

The aim of this bill is singular – to de-criminalise abortion by removing the relevant provisions from the Code. It is within that context we give our support to its passage through the Queensland parliament.

References

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