

Submission to the  
Parliamentary Committee for  
Health, Communities, Disability Services and Domestic and  
Family Violence Prevention  
to assist in their Inquiry into Abortion Law Reform in Qld

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21st June 2016

The Committee of Inquiry into Abortion Law Reform  
Health, Communities, Disability Services and  
Domestic and Family Violence Prevention Committee

Dear Committee Members

I am a General Practitioner providing Medical Termination of Pregnancy at two well known reproductive health clinics in Brisbane (Marie Stopes International, Woolloongabba and True Relationships and Reproductive Health, Ipswich).

My submission is written to seek your endorsement in **favour of the repeal of the current laws existing around abortion in Qld** ie codes 224, 225 and 226 and to subsequently **decriminalise abortion in Queensland**, in line with similar law reform in other Australian states and territories. Abortion is a medical procedure, done by a medical practitioner at the request of and with the informed consent of a women and can be regulated through existing health provisions.

In the last 12 months I have had three women referred to me for termination of their pregnancies directly from a hospital setting because the doctors caring for them were unwilling to provide the required terminations. I provide you with these specific and real case examples because I believe that these doctors failed in their duty of care to these women; and that failure was a direct result of their and the hospital boards' concerns around the lawfulness of the procedure.

**Case 1** was a 42 yr old whose pregnancy was diagnosed at the same time as her metastatic ovarian cancer. Her gynecologist and oncologist at the private Brisbane hospital where she was an inpatient, would not proceed with her chemotherapy/surgery until she was no longer pregnant. However, they themselves could or would not provide her with the necessary abortion. She was required to discharge herself from hospital (which involved disconnecting her analgesic intra-venous morphine line) and make her way to our clinic independently. Her sister pushed her over in a wheelchair. I dispensed the Mifepristone and she then returned to the hospital where she subsequently completed the abortion with Misoprostol the next day. Only then did her oncology treatment proceed. Absurd and cruel are two words which come to mind on this as management of a woman dealing with a life threatening cancer.

**Case 2** was a 26 year old mother of three on Centre Link benefits. She discovered she was pregnant whilst an orthopaedic inpatient at a SE Qld public hospital undergoing treatment for a very serious, debilitating and painful infection of her 3rd and 4th lumbar vertebrae and the disc between them. In this case, abortion was not a pre-requisite for her physicians to provide her life-saving treatment but on the basis of her psychosocial, financial and physical wellbeing she sought a termination of her pregnancy from her doctors at the hospital through the Qld Health Department's Therapeutic Termination of Pregnancy Guidelines.

Her request was denied. The woman subsequently discharged herself from hospital, and was brought by her husband to attend an appointment with me for a medical abortion. To do this, the hospital required her to sign a waiver that she was discharging herself against medical advice.

**Case 3** was a 34 year old refugee who had arrived from Iraq with her husband and 5 year old daughter 12 months earlier. The family were still under asylum-seeker status. She was a newly diagnosed breast cancer patient at a prominent south side Brisbane public hospital when a routine pregnancy test immediately prior to her elective cancer surgery demonstrated her early pregnancy. The surgeons cancelled her procedure at that eleventh hour on the grounds that the radio-isotope used in her intended sentinel node biopsy procedure would be teratogenic. She was advised that she had two treatment options. One was to achieve a non-pregnant status which would then allow the surgeons to proceed with best practice breast cancer treatment. The second was that if she chose to continue her pregnancy, a total mastectomy and full axillary node clearance could be performed and the necessary chemo and radiotherapies deferred until she delivered. Understandably, she informed them that she definitely sought to abort the pregnancy and undertake the treatment most likely to achieve her survival. She had a 6 year old daughter she needed to care for long into the future. However, they did not provide her with the necessary termination. A gynecologist at the hospital did take it upon themselves to seek her an appointment for an abortion at a private clinic, but the out-of-pocket expense of \$550 was beyond her reach on her very limited asylum-seeker status income. The same gynecologist subsequently contacted me at True Relationships and Reproductive Health (formerly Family Planning Qld) where I provided her with a medical abortion for the price of the PBS prescription - \$6.30. She was then accepted back by the surgeons to undergo her breast cancer treatment.

In all of these cases, the women involved were mothers. They had existing children and their decisions to terminate their current pregnancies were made to ensure they would live to mother those children.

As an aside, these three cases also reflect a very common reality for some women seeking abortion. Despite a pregnancy initially being planned and eagerly anticipated sometimes things change in the lives of women/their families/their health circumstances, such that a choice to end the pregnancy is made in order to prioritise their existing life responsibilities.

I would like to draw your attention to the paradoxes in these situations...

### **1. The Qld Health Department has Guidelines for the provision of termination of pregnancy.**

These can be read at....<https://www.health.qld.gov.au/qcg/documents/g-ttop.pdf>

These **Therapeutic Termination of Pregnancy (TTOP) Guidelines** clearly state that a woman can be assessed and provided with a termination of her pregnancy within a Qld Health Public hospital setting. Yet two of these women, patients of Qld Health Public hospitals, were denied public access to an abortion and, consequently, access to life-saving medical treatment.

They did eventually access their necessary abortions (which in itself is a traumatic decision for every woman to make), but had to be shamed and literally wheeled away from their treating doctors and

hospital beds to a sympathetic GP for assistance. It was a shameful hypocrisy for Qld health staff to treat these very ill women in such a disgraceful and demeaning way but it occurred because of the confusion and misinterpretation of the existing outdated laws and the lack of consistency in which the TTOP Guidelines are implemented.

This confusion and misinterpretation would not exist if abortion did not sit in the Queensland criminal code but was regulated by health authorities. In that safe setting, pregnancy termination would sit purely with the woman and her doctor, unencumbered by extraneous influences.

**2. The drug Mifepristone, the abortifacient used to provide a medical termination of pregnancy, is approved by the Australian TGA (Therapeutic Goods Administration) and subsidised by the PBS (Pharmaceutical Benefits Scheme).**

ie the federal government currently provides the funds for Australian women in every state and territory to access this medication, when prescribed by a doctor, to end their pregnancy.

**3. Under the Australian Medicare system there exists a rebate for a woman to access a surgical abortion.** This MBS item number 35643 (evacuation of the contents of the gravid uterus by curettage or suction curettage) carries a rebate of \$163.50.

ie the federal government reimburses women financially for their surgical abortions in every state and territory

The reason for the existence of these paradoxes is the travesty that abortion currently sits within the Qld criminal code - a code written in the 18th century for a society of a different time.

The second and third paradoxes reflect the fact that the Queensland law around abortion is inconsistent with the laws of other states and territories and not aligned with the governing health authorities of the nation.

Doctors in Queensland today are confused as to where they stand under Criminal Code 224, despite the fact that code 282 exists as a defence for the provision of an abortion.

The medical profession need clarification and certainty that the law will support them, not charge them, when they provide a termination of pregnancy to the 25% of women in their practices (1.) who will seek an abortion at some stage in their reproductive lives.

Law reform to entirely remove Abortion from the Qld Criminal Code will bring this critically important medical and social issue out of the shadow, doubt and uncertainty in which it currently sits into a new era of certainty, clarity, accessibility, compassion and recognition that the right to chose to terminate a pregnancy sits solely with a woman and her doctor.

(1.) AHHA report 14/5/16

Yours Sincerely

Dr Fiona Mack