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

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

I am writing this submission to voice my strong support for the Abortion Law Reform (Women's Right to Choose) Amendment Bill 2016, introduced my Cairns Independent MP Rob Pyne.

My support for this bill is backed my extensive experience in this area as an education and training coordinator. I am also a member of the management committee of the Sexual Health Society of Queensland and previously a management committee member of the Young Parents Program in Stafford, Brisbane.

I have worked in the Sexual and Reproductive Health sector in Queensland for over 7 and half years as the education and training coordinator with Children by Choice. In this role I deliver professional development training across the state to a range of professionals including: GPs, nurses, midwives, school based youth health nurses, social workers and youth workers. This training involves increasing their skills to support their clients or patients experiencing an unplanned pregnancy. I provide them with accurate up to date information on unplanned pregnancy and pregnancy options, especially abortion and its legality. The latter is by far the most requested element of our training because it is an area identified by professionals or organisations as a gap in knowledge due to the ambiguity surrounding abortion law.

There is often confusion and disbelief expressed from professionals that Queensland's abortion law not only remains in the criminal code but that these statues date from 1899. In addition to this disbelief many professionals are upset and angry by the laws impact on abortion access, with many trying to support women on a daily basis to access an abortion. This is most evident from interstate and overseas professionals who have worked in jurisdictions were abortion services are accessible to all women.

Many of these medical practitioners are extremely concerned about prosecution if they provide a patient with an abortion or support them to access an abortion. In 2016 this should not be a concern of any medical practitioner providing patient centred health care but unfortunately in Queensland this is the reality and will remain the reality whilst abortion remains in the Criminal Code.

Each and every time I deliver this training, I have to acknowledge these concerns from professionals but explain that this is the way things are in Queensland. I, like the hundreds of professionals I train each year believe that abortion should not be in the Criminal code and should be treated the same as any other health procedure as is the case in most parts of Australia.

I deliver evidence based sexuality education to young people, predominantly to those who have disengaged from main stream education. These young people are more likely to experience an unplanned pregnancy. [1]

A great deal of this education is focused on preventing unplanned pregnancy and also what to do if you experience an unplanned pregnancy and the pregnancy options available. The young people I educate are fearful and concerned about accessing accurate information, particularly about their rights to access an abortion. Some of these young people have already experienced an unplanned pregnancy and those who wanted an abortion faced a multitude of barriers. The current model of abortion access (discussed below) means that for young women abortion access can be incredibly difficult. All women regardless of their age or circumstances should be able to access a safe legal abortion.

I would like to acknowledge in my submission, that many young women and men are great parents but these young people often require additional support. All young women who wish to parent should be supported to do so and programs like Young Parents Program and Young Mothers for Young Women are examples of best practice support.

Responses to the Terms of Reference
All of the responses below to the Terms of Reference support and illustrates the imperative need for the decriminalisation of abortion in Queensland.

- existing practices in Queensland concerning termination of pregnancy by medical practitioners;

The current practice by medical practitioners in Queensland although to a high standard as regulated by Queensland Health is predominantly a private model of provision. This ultimately affects disadvantaged women who cannot afford the procedure and/or women who cannot access the procedure due to other barriers such as distance, stigma and misinformation. This situation and the inequity in Queensland have been highlighted by experts in the field for decades [2,3,4,5].

- existing legal principles that govern termination practices in Queensland;

The existing legal principles (Sections, 224,225,226, 228 and the existing case law) are problematic as is illustrated below.

While sections 224, 225 and 226 of the Queensland Criminal Code provide for criminal sanctions and jail terms for women 'unlawfully' having abortions and doctors 'unlawfully' providing them, they give no definition of what constitutes a lawful or unlawful abortion. In addition, the legal principles generally provide for a lawful abortion if performed to save a woman's life or to prevent serious harm to her physical or mental health – this is open to interpretation and no legal definitions of what constitutes 'serious harm' exist. This means that rape, incest and fetal anomaly etc. are not grounds in or of themselves for a lawful abortion – only their impact on a woman's health is able to be taken into account.

This has resulted in doctors being the sole gate keeper of abortion services. They alone must interpret the legal principles and make the assessment of whether it is lawful or not. This creates uncertainty and frustration for doctors as it requires doctors to ensure that the procedure is defensible. Doctors providing abortions in New South Wales and Queensland routinely feel

compelled to behave, at best, misleadingly but often dishonestly and unethically in order to behave "legally"[6].

The current legal principles mean a pregnant woman who requests an abortion loses her reproductive autonomy and many doctors feel compelled to manufacture a mental health problem. The need for clarity of these legal principles has been called for, for a long time by a range of experts, including Judges.

In 2015, there is an urgent need for legislative uniformity across Australia so that the law is in step with modern medical practice, and so that women, regardless of where they live, have equal access to abortion services.[7] McGuire J stated that the present abortion law in Queensland was uncertain and that either the Court of Appeal or Parliament would need to effect changes in order to clarify this law[8].

Justice Menhennit stated similar concerns over 40 years ago in relation to the ambiguity and uncertainty of these legal principles and the need for clarification by Parliament. The law should be amended to ensure certainty for patients and practitioners.

- **the need to modernise and clarify the law (without altering current clinical practice), to reflect current community attitudes and expectations;**

The vast majority of Australians and Queenslanders support a woman's right to choose abortion; this was evident in from an Auspoll in 2009 . This found that 79% of the population wanted the law changed so abortion is no longer a crime, and that 85% of the population did not believe that the Government should be involved in the abortion decision. I would also like to add that from my work at Children by Choice the community does not expect abortion to be in the Criminal Code, many woman and their partners are shocked that abortion is a criminal offence in Queensland.

From my professional experience providing professional development training in this specialised area of health (as discussed above) Queensland professionals do not expect abortion to be in the Criminal Code and support a woman's right to choose abortion.

- **legislative and regulatory arrangements in other Australian jurisdictions including regulating terminations based on gestational periods;**

Each state and territory in Australia have different legislative frameworks and corresponding regulations for provision. Queensland and New South Wales are the only jurisdictions were terminating a pregnancy is a crime. Queensland Health is the lead authority regulating abortion provision in Queensland under 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 also play a role in regards to the prescribing of medication abortion.

These regulations are very comprehensive and provide clear guidance for practitioners, including gestational limits. These regulations would still be applicable following decriminalisation ensuring best practice continues, the only difference will be the removal of a threat of prosecution for medical practitioners and women.

In regards to the committee's consideration of additional amendments to the Abortion Law Reform (Women's Right to Choose) Amendment Bill 2016 regarding regulations, the following points should be noted.

Gestational periods: Only a tiny number women access an abortion post 20 weeks. Figures from Western Australia state that in 2005, over 90% of abortions were performed at 13 weeks gestation or under, or within the first trimester. Only 0.6% of all abortions were performed at 20 weeks or later. [9] The report on pregnancy outcomes from South Australia's Department of Health in 2013 reports the 91.9% were performed within the first 14 weeks of pregnancy.[10] The small numbers of women who will choose to terminate a pregnancy after 20 weeks gestation do so in severe circumstances, such as severe maternal illness, diagnosis of a severe foetal anomaly, domestic violence or other exacerbating circumstances.

Parental consent: As someone working with young women in the area of sexuality education, I believe young women deserve access to the same services as other women and should not experience more barriers, such as parental consent. Most young women involve a parent already without such a legislative requirement. Research from the UK in 2005 found that over 70% of young women aged under 16 presenting to abortion services had informed one or both of their parents of the pregnancy and their decision, and that reasons given for not informing a parent had included fear of reactions or repercussions.[11] The Queensland Health Clinical Guideline for the Therapeutic Termination of Pregnancy provides comprehensive guidance to providing abortions to young women, including those aged under 14, and sets out best practice standards for assessing young women for capacity to consent to a procedure.[12]

Conscientious objective: A conscientious objection clause would be favourable in Queensland similar to Victoria. In Victoria, medical practitioners with a conscientious objection to abortion are obligated to make that objection known to their patient and then refer that patient to a doctor they know does not hold the same objection – in line with the Australian Medical Association's code of ethics for health professionals.

- **Provision of counselling and support services for women.**

Children by Choice, where I have worked for over 7 and half years is the only independent pro – choice counselling service in Queensland and was founded in 1972. Our counselling team provides counselling, information and referral on all options with an unplanned pregnancy, abortion, adoption and parenting to approximately 2000 Queensland women each year. I therefore have a strong and unique knowledge of women's experiences of navigating an unplanned pregnancy. Every one of these women has the right to make their own decision about an unplanned pregnancy and should be provided with the supports they require to make that decision and to access their preferred option.

These supports should include decision making support and most importantly accurate information about all of their options. The experience of our service and research tells us that the majority of women do not want counselling[13] [14]; however they do want accurate information. Services supporting women should clearly advertise what support they provide. Such services should not coerce women, provide misleading inaccurate information and delay the decision making process or impose their own moral or religious beliefs.

Anti-choice counselling services often mislead women on the supposed 'risks' of abortion in an attempt to scare women out of having a termination. This can be an extremely distressing experience and at Children by Choice we see this too often. The most common myths provided to women at these services as fact are that; an abortion will affect a woman's future fertility, that it causes breast cancer and that there are long-lasting psychological impacts of abortion. These myths have been debunked by experts below.

The Royal Australian and New Zealand College of Obstetricians and Gynaecologists states that serious complications after abortions are rare, and that mortality and serious morbidity occur less commonly with abortions than with pregnancies carried to term[15]. Women who have an uncomplicated termination are not at an increased risk of being infertile in the future[16].

Around the world reproductive health and anti-cancer organisations have rejected any association between abortion and an increased risk of breast cancer. This rejection is based on scientific investigation; documented in reputable medical publications and has been endorsed by the World Health Organisation[17].

The Royal Australian and New Zealand College of Obstetricians and Gynecologists (RANZCOG) reviewed the evidence on the psychological impact of abortion and concluded that "Psychological studies suggest that there is mainly improvement in psychological wellbeing in the short term after termination of pregnancy [and that] there are rarely immediate or lasting negative consequences" [18].

No one should have to navigate this mine field of inaccurate and misleading information in order to make a decision. Every woman should be able to make a decision about any unplanned pregnancy based on their own moral compass with the best accurate information.

Conclusion

Abortion can be an emotive issue for some members of the community; however this is not an excuse to disseminate misleading and highly inaccurate information as we have seen since the introduction of this bill by anti-choice and religious factions. This is evident from the significant number of submissions submitted to this committee published on the parliamentary enquiry webpage and also claims regarding "late term" abortion and "live births" as was exposed in the two news articles below.

http://www.brisbanetimes.com.au/queensland/fact-and-reason-needed-in-abortion-debate-trad-20160625-gprrkn.html

https://www.theguardian.com/world/2016/jun/22/live-births-after-abortion-misleading-queensland-legal-reform-debate-says-specialist

The reality is that abortion is a necessary reproductive health procedure accessed by millions of women each year. Queensland woman and doctors deserve to be able to access or provide the procedure without the threat of prosecution. Unplanned pregnancy does not discriminate and women from all backgrounds access abortions, including religious women. "Many abortion patients reported a religious affiliation—24% were Catholic, 17% were mainline Protestant, 13% were evangelical Protestant and 8% identified with some other religion. Thirty-eight percent of patients had no religious affiliation"[19].

I trust that as legislators you will undertake this historic review based on the views of experts working in the field with the best available evidence and remove the emotion and prejudice that surrounds this issue. It would be a disappointing outcome for the state if the outcome of this very important public health policy was based on the views of a vocal minority.

Yours sincerely, Pamela Doherty

[1] Current priorities for adolescent sexual and reproductive health in Australia, S Rachel Skinner and Martha Hickey, Med J Aust 2003; 179 (3): 158-161.

[2] Abortion law in Queensland: The need for reform, Paper Delivered by Dr Caroline de Costa to QCCL Annual General Meeting, Irish Club, Brisbane, 5 October 2010

[3] http://www.law.uq.edu.au/documents/pro-bono-centre/publications/Final-Brief-on-Abortion-Law-Reform-May-2015.pdf

[4] http://www.childrenbychoice.org.au/info-a-resources/facts-and-figures/abortion-in-qld-issues

[5] QUT Law Review Volume 14, Number 2, 2014 DOI 10.5204/qutlr.v14i2.540 QUEENSLAND ABORTION LAWS: CRIMINALISING ONE IN THREE WOMEN Katherine Kerr.

[6] H Douglas, K Black, C deCosta, 'Manufacturing Mental Illness (and Lawful Abortion): Doctors' Attitudes to Abortion Law and Practice in New South Walesand Queensland' (2013) 20 Journal of Law and Medicine, p.574. Professor Heather Douglas, TC Beirne School of Law, The University of Queensland

[7] Abortion law in Australia: it's time for national consistency and decriminalisation Caroline M de Costa and Heather Douglas, Med J Aust 2015; 203 (9): 349-350.

[8] [1896] QDC 011.

[9] Straton J, Godman K, Gee V, & Hu Q. (2006). *Induced abortion in Western Australia 1999-2005*.Report of the WA Abortion Notification System. Department of Health. Perth, Western Australia.

[10] Pregnancy Outcome Report in South Australia 2013, p.55. Available online http://www.sahealth.sa.gov.au/wps/wcm/connect/public+content/sa+health+internet/about+us/health+statistics/pregnancy+outcome+statistics

[11] Abortion and young women: issues of confidentiality Marie Stopes International United Kingdom, London, 2005. Online at http://www.shnwales.org.uk/Documents/485/Abortion%20%26%20young%20women%2C%20issues%20of%20confidentiality%20Marie%20Stopes.pdf

[12] , p.11 Queensland Maternity and Neonatal Clinical Guideline: Therapeutic Termination of Pregnancy available on the Queensland Health website at https://www.health.qld.gov.au/qcg/documents/g-ttop.pdf.

[13] Marie Stopes International, What women want: When faced with an unplanned pregnancy, Key Findings, p.4.

[14] Children by Choice Association, Annual Report, 2014-15 and 2013-14. Available at http://www.childrenbychoice.org.au/about-us/annualreports

[15] Public Health Association of Australia Women's Health Special Interest Group *Abortion in Australia: Public Health Perspectives* 3rd edition, 2005. Available online at http://www.phaa.net.au/documents/phaa_abortion_kit.pdf.

[16] The Royal Australian and New Zealand College of Obstetricians and Gynaecologists, *Termination of Pregnancy: A resource for health professionals* November 2005. Available online at http://www.ranzcog.edu.au/womenshealth/pdfs/Termination-ofpregnancy.pdf.

[17] World Health Organisation *Induced abortion does not increase the risk of breast cancer* Fact Sheet 240, June 2000. Reproduced on the Australian Women's Health Network website at http://www.awhn.org.au/content/view/27/76/#_edn1.

[18] The Royal Australian and New Zealand College of Obstetricians and Gynaecologists, *Termination of Pregnancy: A resource for health professionals* November 2005. Available online at http://www.ranzcog.edu.au/womenshealth/pdfs/Termination-ofpregnancy.pdf.

[19] Guttmacher Institution, Characteristics of U.S. Abortion Patients in 2014 and Changes Since 2008.