Submission No. 778
Received 29 June 2016

Submission by the
National Alliance of Abortion and Pregnancy Options Counsellors (NAAPOC) to the Abortion Law Reform (Women's Right to Choose) Amendment Bill 2016 and Inquiry into laws governing termination of pregnancy in Queensland

29 June 2016

The National Alliance of Abortion and Pregnancy Options Counsellors (NAAPOC) supports the Queensland Parliament's ***Abortion Law Reform (Woman's Right to Choose) Amendment Bill 2016***, which proposes to remove abortion from *Queensland's Criminal Code* 1899. As an association of professional counsellors, we make this submission with particular reference to the Inquiry's fifth term of reference, "the provision of counselling and support services to women."

NAAPOC

NAAPOC was formally established in 2014 as an alliance of pregnancy options counsellors who have joint expertise and interest in unplanned, unintended or unwanted pregnancy and abortion counselling and the provision of pro-choice information, women-centred counselling and referral services. *NAAPOC* has four founding organisations comprised of Pregnancy Advisory Service PAS (Victoria), Marie Stopes International Australia-MSIA (national), Children by Choice (Queensland) and Pregnancy Advisory Centre - PAC, (South Australia). PAS and PAC are part of their respective state government public health services. MSIA provides a range of reproductive health services, including abortion across Australia. Pro-choice counselling is an important part of the service they offer. Children by Choice is Queensland's only standalone pro-choice pregnancy counselling, information and referral service. All counsellors employed by these services and in the NAAPOC alliance hold tertiary qualifications in relevant fields including social work, psychology and counselling and have extensive experience in counselling women with an unplanned pregnancy.

Abortion as a Reproductive Right: A National and International Context

NAAPOC believes that women should have the right to freely determine their reproductive health choices. Women's rights to access comprehensive reproductive health services, including abortion, are recognised by the United Nations Committee on the Elimination of Discrimination of Against Women, drawing upon the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (1979) (1). In a 2016 judgment, the United Nations assessed the criminalisation of abortion by a state to be "a breach of women's human rights" (1.1). *NAAPOC* believes that advocating for women to have access to their full range of reproductive rights is fundamental to ensuring women can enact their full claims to citizenship and human rights.

Unplanned, unintended and unwanted pregnancies are the primary reason women choose abortion. Among the 208 million women estimated to become pregnant each year worldwide 41% (or 85 million) of pregnancies are unintended (2). In Australia approximately 50% of pregnancies are unplanned (6). Some women are able to incorporate an unplanned pregnancy into their lives; others require a range of supports, such as family, friends, and partner support or pregnancy options counselling to support them to make a decision. It is

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estimated that just under one in four women in Australia will have a termination of pregnancy during their reproductive lifetimes (3).

Abortion in Australia and in other developed countries has for many years been established as a safe and common procedure. ***RANZCOG*** conclude in their publication, Termination of Pregnancy: A Resource for Health Workers:
*"*Abortion is safer than continuing a pregnancy to term and that complications are uncommon"*(3).*

Similarly, ***The World Health Organisation's*** position on abortion is clear**:**
"Whether abortion is legally restricted or not, the likelihood that a woman will have an abortion for an unintended pregnancy is about the same. Unsafe abortion and associated morbidity and mortality in women are avoidable. Safe abortion services therefore should be available and accessible for all women"(*2).*

More recently, the ***Australian Medical Association's*** 2013 position statement on ethical issues in reproductive medicine stated the following (4):

- Access to reproductive medicine should be free from political or religious interference.
- All individuals have the right to make their own decisions about reproduction and the use of available reproductive medicine.
- Reproductive medicine includes services to manage fertility as well as infertility. Family planning services are used to control fertility and include contraception, termination of pregnancy, and sterilisation.
- A patient who seeks, or has undertaken any form of reproductive medicine, should not be subject to discrimination or stigmatisation.
- While a doctor may refuse to be clinically involved in a termination of pregnancy because of his or her personal convictions, such a refusal should not impede the patient's access to care.

The extensive research available, as highlighted above, supports a universal right of women to access safe and legal abortion. It is appropriate therefore that abortion be removed from Queensland's *Criminal Code 1899,* and oversight of abortion provision to be transferred to a robust evidenced based health regulation framework.

Supporting women: Counselling as a part of a range of support systems for women who experience an unplanned/ unintended/ unwanted pregnancy

NAAPOC supports contemporary evidence-based and women-centred counselling practices and clinical services as identified and evidenced by the World Health Organisation (**WHO**), Royal Australian and New Zealand College and Obstetrics and Gynaecologists (**RANZCOG**), United Kingdom Royal College Obstetrics and Gynaecologists (**RCOG**), Academy of Royal Medical Colleges Medicine (**AORMC**), and the American Psychological Association (**APA**). As such we support Australian women having access to comprehensive, evidenced based counselling and support that places the woman as the expert in her life. This is turn supports the woman's full capacity to choose one of three pregnancy outcomes available: continuing the pregnancy to parent, abortion and continuing the pregnancy to adopt.

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Informed consent counselling vs therapeutic counselling
It is important to note the difference between therapeutic counselling and informed consent counselling in the context of pregnancy options and abortion counselling. Informed consent counselling supports women to understand the abortion procedure and any risks or side effects related to the procedure. Importantly, informed consent counselling confirms that the woman is independently making the choice to have an abortion.

The provision of informed consent counselling is a standard required of all abortion clinics licensed by Queensland Health (as are all private abortion clinics in Queensland) and in Queensland hospitals. MSHealth, the licensed distributor of abortion medication in Australia, requires that general practitioners who prescribe the medication abortion obtain informed consent from their patients. Therefore Queensland women are already meeting requirements regarding abortion counselling.

Therapeutic counselling in comparison provides women with the opportunity, where needed, to further explore their values, strengths and capacities in relation to their potential pregnancy decision. It may be that a woman requests counselling to assist her to navigate the decision-making path, or she may have already made a decision, for example, to have an abortion, and needs to discuss this decision with a supportive and non-judgemental counselling professional. For the majority of women, an unplanned or unwanted pregnancy comes as a shock and there may be challenging feelings and emotions associated with pregnancy decision-making. Women or couples with a wanted pregnancy may receive the news of a fetal abnormality and may be faced with a difficult decision-making process regarding the outcome of the pregnancy. Women have the capacity to reflect on their situation, determine what they want and to make informed choices about their course of action. They either do this on their own or with the support of significant others in their lives including their health care providers. Thus it is not necessary that women receive pregnancy options counselling, however it is important that it be available to them if needed.

Effective support for women making these decisions should be based on several best practice key principles:

- Women are the experts in their own life.
- Women have the right to be treated in a respectful, non-judgemental way when discussing all of their reproductive options.
- Women require access to accurate/ evidence-based information about all the reproductive options they are considering (15).

Mandatory counselling and cooling off periods
Not all women need or want therapeutic counselling prior to making a decision about an unplanned/unwanted pregnancy as demonstrated by Australian and international research. In a study commissioned by Marie Stopes International, the majority of women participants stated they did not need or want counselling, but wanted it to be available if required (6). A peer-reviewed qualitative study concluded that requiring women to undergo counselling would “delay the process and for most women would be an unnecessary burden, whilst also diverting resources from those women who require counselling” (7). Whilst the majority of women cope well with abortion, we know that there are risk factors for poor coping after an

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abortion, such as pre-existing mental health issues (7). It is important for these women that voluntary therapeutic counselling be made available upon request.

NAAPOC supports the availability of voluntary, counselling either prior to or after abortion or both, which is self-determined, confidential, respectful and committed to principles of social justice, diversity and reproductive autonomy. The practice standards and ethical guidelines of social work, counselling and psychological registration bodies in Australia also support the general principles of client self-determination, self-efficacy and client's rights to autonomy over their decisions; these registration bodies include the Australian Association of Social Workers, Australian Psychological Association, Psychotherapy and Counselling Federation of Australia and the Australian Counselling Association. *NAAPOC* does not support any amendments of the Bill that seeks to propose compulsory counselling or mandatory waiting periods for women accessing abortion.

Women accessing abortion undertake a comprehensive medical assessment and aforementioned informed consent process prior to abortion. Additionally women in many areas are subject to wait times for appointments which are often due to geographical barriers to abortion services and the inaccessibility of abortion-services in many metropolitan, regional and rural areas of Australia. The imposition of unnecessary mandatory counselling would further increase these wait times and, subsequently increase stress for the woman. In the rigorous abortion law reform review process, the Victorian Abortion Law Reform Commission vetoed the recommendation of proposed legislation that sought to introduce compulsory counselling and mandatory cooling off periods prior to area abortion(9).

Anti-choice individuals and groups opposed to abortion have argued false and distorted claims that mandatory counselling and cooling off periods will reduce the abortion rate. It is arguable that these groups aim to impose additional burdens on women to create barriers to abortion access, rather than offering a range of supports for women no matter which pregnancy option they choose or be guided by women's own competent assessments of their needs.

NAAPOC draws the attention of the committee to peer-reviewed research that indicates that improved access to contraception and comprehensive sexual health education is the key factor associated with reduced rates of abortions (10).

NAAPOC believes that mandatory cooling off periods are offensive and discriminatory to women because they negate women's autonomy, competency and self-determination to make their own decisions about their health and their life-circumstances. Further, *NAAPOC* argues that women who have decided to continue a pregnancy and parent are not required to compulsorily attend counselling to validate this choice. Correspondingly, men are not required to undergo mandatory cooling off periods for male-specific medical procedures.

There is no evidence that women take any decision about an unintended pregnancy in a rushed or unconsidered way. It is the experience of *NAAPOC* counsellors that women weighing up their pregnancy options do so in a considered and deeply thoughtful manner. Whilst mandatory counselling is rarely implemented, there have been examples in the

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United States of America which have sought to restrict access to abortion by imposing this upon women. In Mississippi following enforcement of this type of law, the abortion rate within the state declined *however* the proportions of abortion performed out of state-boundaries for residents increased significantly. Importantly, the proportion of women seeking abortion beyond twelve weeks gestation also increased among these residents, and it may be suggested that the cooling off period acted as a barrier for women to access abortion within an earlier advised gestation. Researchers concluded that mandatory laws were directly correlated with making access for a required service more difficult which resulted in interstate travel and later gestations for abortions (8). Mandatory counselling and mandatory cooling off periods undermine the expertise of medical and health professionals providing care for women and suggests that the state does not trust women, as a specific group of the population, to make responsible, autonomous and competent decisions.

Supports following an abortion

The following points are drawn from peer-reviewed publications by bodies such as **RANZCOG**, **RCOG**, **APA, AORMC** and **WHO.**

- The majority of women cope well emotionally following an abortion (11). Some women experience a range of emotions following abortion. Often this occurs because women aren't given social and cultural permission to consider abortion as a legitimate option, resulting in a struggle with a pregnancy and related doubting of their own experiences. It is this doubt that lack of self-validation can lead to a range of complex feelings. The stigma that exists around abortion perpetuates the idea that if you do choose to have a termination that it should be followed by a negative emotional response, in particular regret and yet this is not the case for the majority of women.
- The best scientific evidence published indicates that among adult women who have an *unplanned pregnancy the* relative risk of mental health problems is no greater if they have a single elective first-trimester abortion than if they deliver that pregnancy (11).
- The most reliable predictor of post abortion mental health problems was having a prior history of mental health problems (11).
- Research published in July 2015 which followed women over 3 years post their abortion showed that 99% of these women reported that abortion was the right decision at all time points over three years (12).
- The study also showed that both negative and positive emotions declines over time and that higher perceived community abortion stigma and lower social support were associated with more negative emotions (12).
- In 2011 a meta-review of studies show the rates of mental health problems for women with an unwanted pregnancy were the same whether they had an abortion or gave birth (13).

Support after abortion for fetal abnormalities

The published studies that examined women's responses following an induced abortion due to fetal abnormality suggest that terminating a wanted pregnancy later in pregnancy due to fetal abnormality appears to be associated with negative psychological reactions equivalent

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to those experienced by women who miscarry a wanted pregnancy or who experience a stillbirth or death of a newborn, but less than those who deliver a child with life-threatening abnormalities (11). Support and counselling services for women and partner's face a diagnosis and require decision making and post abortion support is provided by organisations such as SAFDA (support after fetal diagnosis of abnormality) and genetic counsellors and maternal fetal medicine specialists located in obstetric hospitals in Australia.

Professional counselling: Access and availability issues in Australia

It is important to note that Australian women have varying degrees of access to high quality, women-centred, evidence-based counselling for decision making and post abortion support for unplanned/unwanted pregnancies. There are a number of organisations that provide counselling and support services to women throughout Australia. These include, but are not limited to, the Sexual Health and Family Planning Alliances in Australia, Marie Stopes International Australia, Children By Choice, Royal Women's Hospital-Pregnancy Advisory Service, SA Health-Pregnancy Advisory Centre, the Post and Antenatal Depression Association (PANDA) which includes the National Perinatal Depression helpline and SANDS Miscarriage, Stillbirth and Newborn Death Support.

Whilst there are differences between pregnancy counselling services across Australia in both the public and private settings, those services that operate from a woman centred, pro-choice perspective are considered best-practice. These best practice services acknowledge a woman's capacity to make her own decision and provide her with the opportunity to access support via counselling that is informed, evidence-based and respectful. These counselling services additionally provide support and referrals to access antenatal, parenting, abortion and adoption services as required. In Queensland, when a doctor assesses that a woman does not have the capacity to make the decision to have an abortion (based on intellectual disability or age-capacity), the matter is referred to a court for consideration. This provides an additional safeguard for vulnerable women.

However, the quality and availability of appropriate counselling in Australia is unreliable. This is largely due to counselling in Australia not being government regulated. A large range of people are legally able to call themselves counsellors without appropriate qualifications or training. This has consequences for anyone seeking counselling and undermines the profession for those counsellors who are trained appropriately, access clinical supervision, who uphold and are guided by professional practice standards and ethics.

There are a number of organisations that purport to provide counselling services to women facing unplanned or unwanted pregnancy in Australia. Colloquially known as false-providers or anti-choice providers, the aim of these false pregnancy counselling providers is to talk women out of abortion. They do so by providing misleading, inaccurate or false information about the option of abortion and will not provide information about where a woman can obtain information about abortion access. They use tactics that seek to shame, scare and manipulate women who contact them seeking support and information about abortion.

It is important that women have access to pro-choice counselling services when they decide they need it. At the very least, anti-choice services should publicly state their anti-choice

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stance in all published materials so that any reasonable health-consumer would be able to determine whether or not the service is pro-choice. As the national advertising law stands, there is no requirement for purported pregnancy options services to be transparent about their stance on abortion. As *NAAPOC* counsellors, we have had numerous experiences providing counselling to women experiencing significant distress after their prior interaction with an anti-choice 'counselling' service or medical professional. Here are some examples of what women have communicated to us about their experiences with anti-choice 'counselling services' and medical professionals:

- *"The counsellor told me I would be a failure as a wife and as a mother if I even considered abortion".*

- *"He [the GP] told me I couldn't have an abortion and that I had to wait a week to get an ultrasound. I didn't have a choice left after that."*

- *"He [the GP] told me that if I had an abortion I would be murdering my baby."*

- *"She [the counsellor] told me I would be a murderer."*

- *"He [the GP]referred me for ante-natal appointments, and didn't give me any other information as said this was best for me."*

- *"She[counsellor] told me I'd never get pregnant again."*

- *The mother of a pregnant 13 year old young woman seeking information regarding options for her daughter was told by a counsellor if her daughter adopted out her child it "would be the worst thing she could do" and if she terminated "well that's just killing the baby." She was advised that there would be support for her daughter to keep the baby "like cots and baby clothes." She was also told the Government would give them money to keep the baby -"a few thousand."*

- *"When we [woman and her partner] left [the counselling session] we were both anxious, angry and upset, with the counsellor and each other. We were told I would be at high risk of getting breast cancer if I had an abortion, that I could become infertile and that I would be psychologically traumatised."*

In contrast to the above experiences here are some examples of women's feedback about their experiences of counselling as obtained by a consumer feedback evaluation in 2014 conducted in one of the founding *NAAPOC* organisations.

Question asked- Can you described how you thought counselling would help you?
Answers:

- *"I was overwhelmed when I found out I was pregnant. I needed someone with expertise to help guide my thought process with decision making and also provide practical assistance in a non-judgmental way if I wanted to go down the path of termination".*
- *"I wanted to discuss and explore my thoughts and feelings with someone in a non-judgmental, supportive and unbiased way."*

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- *"We had come to a fork in the road, so to speak with an unplanned pregnancy. I needed someone to provide non-biased means by which my husband and I could decide what we wanted to do. We needed some guidance and decision making tools to make our choice."*

Question asked - In your opinion, what do women with an unplanned/unwanted pregnancy need most from counselling?
Answers:

- *"Exactly what is provided - non-judgmental person to listen to situation and provide guidance, assist in weighing up options and also with organisation of termination if chosen."*
- *"This counselling service is not just supportive of the unwanted/unplanned pregnancy, but offers more than that. People with these pregnancies tend to be more vulnerable women, and therefore the service is required to support them and their rights to be a woman and to have the best outcome for their future."*
- *"Non-judgmental opportunity to be heard, time to digest and make a decision that is comfortable for them."*

Australia is a modern, secular society with a strong history of medical and scientific research. Australian women, including women in Queensland, should have the rights to make their own health care decisions and to be trusted as experts in their own lives. Women should be able to trust that health professionals and or counsellors will not subject them to non-evidence-based or personal anti-choice values when seeking professional support and counselling services regarding a private medical issue. NAAPOC urges Members of Parliament to be aware and mindful of the number of these false providers in Queensland and Australia wide which do not rely on medically sound, evidence-based information to guide their information and practice.

Conclusion
*NAAPOC***,** urges the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee to adopt the recommendations of reputable, peak bodies such as **RANZCOG**, **RCOG**, **APA,** the **AMA, AOMRC** and **WHO** and to refer to peer reviewed, methodologically sound evidence when making recommendations regarding the role of self-determined counselling in the provision of abortion in Queensland.

NAAPOC urges the Queensland government to be guided by the evidence-based medical and scientific research agreed upon by every relevant, respected, and recognised health and medical institutions internationally, and in Australia. The anti-choice agenda aims to "represent both sides" of abortion, using false equivalencies effectively giving equal value to the opinions of those who deliberately spread highly emotive misinformation. This technique has become a mainstay of the anti-choice agenda in the debate surrounding women's reproductive rights and abortion law reform.

NAAPOC urges Members of Parliament not to consider claims of anti-choice individuals and groups who oppose women's rights to access safe and legal abortion. These claims are not

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'equivalent' to the consensus of the medical and public health sector. Personal decision-making by women and their doctors should not be replaced by personal-political ideology (9).

NAAPOC calls upon the Queensland Government to pass the Abortion Law Reform (Women's Right to Choose) Amendment Bill 2016 as it stands to ensure that Queensland women have the right to access safe and legal abortion.

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