

I am a Queensland public health professional who has worked in the sexual and reproductive health field for the past 18 years.

There is a ten year vision for Health Services in Queensland outlined in the *My health, Queensland's future: Advancing health 2026* (Advancing Health 2026) report. The vision is supported by five principles of sustainability, compassion, inclusion, excellence and empowerment. It commits our state to deliver high quality and evidence-based care, supported by best practice and the recognition that healthcare systems are stronger when consumers are at the heart of everything we do, and they can make informed decisions.

It is difficult to see how criminalising abortion - a service which between one in 4 and one in 3 Queensland women require in their lifetime - is either sustainable, compassionate, promotes inclusion, excellence or empowerment. It shames and stigmatises women when the ability to control their fertility 100 percent of the time over more than 30 reproductive years is rarely attainable.

Advancing Health 2026 sets the direction for promoting wellbeing, delivering healthcare, connecting healthcare and pursuing innovation. I recommend these directions to the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee as they focus upon equitable access to quality and safe healthcare with a focus on patient-centred care.

With this vision and direction in mind, I would like to make a submission to the Committee which addresses the terms of reference which have been set to examine the Private Member's Bill to decriminalise abortion in Queensland.

### **1. Existing practices in Queensland concerning termination of pregnancy by medical practitioners**

I do believe that it is important for the committee to hear directly from clinicians who work in both the public and private health systems which provide termination of pregnancy services. There is also peer-reviewed published data for termination of pregnancy services in Queensland in the medical literature (Downing et al 2010, de Costa et al 2012, Goldstone et al 2012). Clinicians who do not deliver these services to women are unlikely to have a current and informed perspective about this area of health service delivery.

The Royal Australian College of Obstetricians and Gynaecologists , the Public Health Association of Australia, the Sexual Health Society of Queensland and Sexual Health and Family Planning Australia all advocate for the decriminalisation of abortion and equity of access to abortion services.

### **2. Existing legal principles that govern termination practices in Queensland.**

Given that the Crimes Act was written in 1899 and still contains understandings peculiar to the 19<sup>th</sup> century, such as the phrase "whether she is or is not with child", as there were then no pregnancy tests or ultrasounds available – I would say that the legal principles contained in the Crimes Act are out of date with regard to abortion.

Queensland and New South Wales will be the last states to repeal or reform these out of date laws. After more than 100 years without a parliamentary vote on this issue both Queensland and NSW are proceeding to a discussion. In NSW there is a private members bill to decriminalise abortion and

enact safe access zones which has been released for public comment and consultation with a debate expected this year.

The Crimes Act does not provide current or sound legal principles to govern termination practices in QLD and the relevant sections should be repealed.

Termination of pregnancy is regulated by Queensland Health guidelines, clinical best practice, medical practitioner registration and hospital and health service guidelines. None of these things will change significantly if abortion was decriminalised, however the threat of legal prosecution for women or doctors would be removed.

A lack of clarity about abortion laws causes confusion within the medical profession, particularly those who move across state and territory boundaries. A national survey of General Practitioners found that almost 40% are not confident in their knowledge of their state's or territory's abortion law (MSI, 2004).

### **3. The need to modernise and clarify the law (without altering current clinical practice), to reflect current community attitudes and expectations**

#### *Why change the law?*

- Because there have been prosecutions - but no convictions. This is a waste of police and judicial time and resources when judges and juries are unlikely to apply such archaic laws in 2016 and into the future.
- Because it restricts access to termination of pregnancy through public hospitals (as in the recent case of the 12-year-old from Rockhampton).
- Because it restricts medical training.

#### *A law that is not relevant to today*

Law reform is necessary when the laws are out of step with modern practice or reality. This is definitely the case for abortion law in QLD.

In the 19<sup>th</sup> century women had to be protected from unscrupulous abortion providers with potentially life threatening 'treatments'. The issue of unwanted pregnancy and less than 100% effective contraception have been universal and persistent across time.

But medical practice has definitely changed since the 1890s. Abortion is now much safer for a woman than the risks associated with continuing with a pregnancy.

This was the basis for the jury's decision in the Cairns trial in 2010, after hearing an expert witness they determined that mifepristone did not constitute a "noxious substance" under the law. Instead, the abortion drugs had no ill-effect on the young woman, were taken by women around the world every year, and were recommended medicines by the World Health Organisation (WHO 2005).

*Has public opinion moved with the times?*

Most Queenslanders believe that abortion is legal and available. They are shocked to know that in fact abortion provision is still governed by the 1899 sections of the Crimes Act in Queensland with penalties of 7 years jail for the woman, 14 for a Doctor or 3 years for anyone assisting the woman.

For decades, reliable opinion polling has found support for women's right to choose to be 70-80 per cent (Betts 2004, Auspoll 2009). In Australia, legislative moves towards substantial decriminalisation have occurred over the past 15 years.

#### **4. Legislative and regulatory arrangements in other Australian jurisdictions including regulating terminations based on gestational periods**

The ACT has proceeded with repeal with no reference to gestational limits. In all states and territories of Australia the vast majority of terminations of pregnancy occur well within the first trimester. Late term abortions are rare and invariably stem from a foetus being unviable and/or severe risk to the pregnant woman. Medical practitioners are already governed by explicit standards of ethical and professional conduct which are maintained via national registration systems and the Medical Board of Australia.

There are no gestational limits currently within Queensland law and there does not appear to be any medical or health related evidence to justify the introduction of such limits.

While religious groups or individuals may wish to impose gestational limits, the practice of medicine within Queensland is currently not governed by religion, but by medical science and professional ethics and codes of practice.

#### **5. Provision of counselling and support services for women**

It is important that counselling and support services remain voluntary and non-directive and are not mandated or directive (either for or against termination of pregnancy).

About 75% of women find decision making regarding an unplanned pregnancy a relatively straightforward process and have no desire to speak to a professional counsellor (MSI 2006).

#### **In summary**

Women of reproductive age in Queensland – broadly from the age of 12 to 50 - are impacted by the sections of the Crimes Act from 1899. Health services in this state are impacted by the sections of the Crimes Act from 1899. It is time to repeal these sections.

Gestational limits should only be discussed in relation to medical guidelines and practice. They have no place in the Crimes Act and the discussion in regard to "late-term" abortions has been introduced and manipulated by those who hope to scuttle any changes rather than being based on any real case experience or evidence of malpractice in Australia.

Passage of the *Abortion Law Reform (Women's Right to Choose) Amendment Bill 2016* will lead to an improvement in women's reproductive health in Queensland. Without the threat of criminal sanctions, women can seek out the services they require, have greater access to contraception and preventative health care within more holistic service provision, and medical professionals can work

in the field where they can focus on the needs of women presenting rather than about what constitutes a legal defence for a common and safe medical procedure.

Carla Gorton

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