

25th June 2016

Dr Janet Fairweather

Members of the Health Reform Committee

I am a fifty year old Wife, Mother, Daughter, Sister, Niece, Friend and General Practitioner. The views I express on abortion are based not only on the experiences of my own private knowledge they are based on the experience of the thousands of Patients whom I have had the honour and privilege of assisting. I am an abortion provider, working primarily in Queensland and NSW, where abortion remains on antiquated criminal legislature, and in Victoria where the performance of therapeutic abortion is no longer illegal. As you are aware the laws relating to termination of pregnancy are vastly different within each state of Australia and I believe you will have received submissions pertaining to these differences from parties far more qualified to comment than myself.

I write to add my support for the Abortion Law Reform (Womens right to Choose) amendment Bill 2016 proposed by Mr Rob Pyne MP Member for Cairns.

The proposed Bill removes sections 224, 225 and 226 from the Criminal Code. These provisions are undoubtedly archaic, outdated and have no place in a modern, liberal society. They provide that any person who carries out, or assists with, an abortion may be liable to criminal prosecution, including the woman herself. Under these laws on any given day I could attend a clinic in which I see many women who are seeking assistance with a private medical problem such as unwanted pregnancy only to face criminal charges under sections 224, 225 and 226. I feel it is not in any person's best interest to have a continuing situation whereby the legal system is able to interfere with medical treatment. A person has the right to obtain medical treatment in a confidential manner and the law as it currently stands in Queensland puts at risk vulnerable women who attend requesting medical management of a health condition which is impacting on their lives. As abortion is the only medical treatment which is covered by a criminal law. I believe it is time for this law to be removed from the criminal code. Abortion is a very private and personal matter which should only ever involve the woman and her treating health practitioner or team. If I am at any time charged I would be forced to use private and confidential medical records as a defence against prosecution this cannot be considered in any person's best interest. Regardless of who is involved once the sacred confidentiality of the medical consultation has been breached it is society in general which would be worse off for the breach. Currently I am required to rely upon a somewhat uncertain interpretation of the "surgical operations and medical treatment" defence in section 282 of the Code if at any time I am required to defend my decision to

provide a termination of pregnancy to a competent woman in Queensland who chooses not to be pregnant. In the 1986 case *R v Bayliss*, which interprets section 282 Justice McGuire found that “in exceptional cases” an abortion would not be unlawful where it was carried out in good faith to avoid “serious danger” to the mother’s life or her physical or mental health. Omitting sections 224, 225 and 226 will remove the necessity to rely on these two section 282 components:

I have given some consideration as to the reasoning behind having the issue of termination of pregnancy in the law at all. There is no law regarding removal of kidneys or heart surgery, modern psychiatric practice is not governed by criminal statutes. I suspect the provision is probably due to the long forgotten requirement to protect women from harm. The current law dates back to 1899, and was modelled on a law dating back to the early 1860’s in England. I suspect women seeking abortion in these times were highly likely to suffer life limiting injury at the hands of early abortion providers. These were times prior to our current understanding of germ theory and doctors would rarely wash their hands between patients. This is no longer an issue. Abortion in Australia is one of the safest medical procedures performed. Far fewer women are ever hospitalised due to complications of abortion than are hospitalised due to complication of continuing a pregnancy. We now also have the ability to provide a non-surgical, medical abortion. The medications used have been in use throughout other countries since the early 1980’s they are Mifepristone and Misoprostol. These two medications are listed on the World Health Organisations list of essential medications. They are very safe, used appropriately, and are in fact listed on our PBS for termination of pregnancy up to 63 days gestation for use by appropriately qualified doctors. This creates an unusual situation where by we have a PBS subsidised medication which provides an outcome (abortion) which is a criminal offence in Queensland. Most of the women I see in my daily practice are not aware of the criminal nature of their request for termination of unwanted pregnancy. It would certainly be ideal if it were possible to have a qualified prescriber of this medication in every General Practice within Queensland. This would be especially important for women living in rural and remote communities. Unfortunately most of the prescribers are clustered around the major centres of Brisbane and Cairns this provides a huge burden to women’s access to termination of pregnancy outside of these major centres. If abortion was no longer a criminal offence I believe more doctors would do the additional training required and become prescribers of this essential medication. This would relieve the burden of expensive travel to a major centre for desperate and vulnerable rural & remote women.

I am not anti -children, in fact as a Mother, I adore children. I considered Paediatrics as a career and completed six months of paediatric training and studied for a post graduate Diploma in Child Health through the Westmead Childrens Hospital and the University of Sydney. It was during my paediatric training that I gained exposure to suspected child abuse and neglect teams (SCAN) working within Qld Health. The horror of some of these cases and the loss of children’s lives is what deterred me from pursuit of a paediatric career. I did however gain a reputation within my local community as a baby and children’s General Practitioner. Many of the children I saw in General Practice were living in foster homes and had suffered dreadful abuse and neglect at the hands of

those responsible for their protection and nurturing. I was the General Practitioner for two three month old babies who were murdered, allegedly by their Fathers whom remain in custody awaiting trial. It is these and many other stories which has shaped my view of abortion. There are a number of key points that I believe are fundamental to understand for any committee charged with making a recommendation regarding the law surrounding abortion.

1. Being sexually active is a normal part of being a healthy adult individual.
2. No form of contraception is 100% effective, no matter how carefully and accurately it is used.
3. No woman ever wishes to be in a position where she is forced to make a decision to have an abortion.
4. Few people like the idea of abortion until they or their Partner requires one.
5. An individual's moral beliefs are exactly that, individual. I have no right to attempt to enforce my moral beliefs on any other individual.
6. I believe the inclusion of abortion within the criminal code of 1899 was most likely required at the time for the genuine protection of women from harm as the provision of abortion has historically been very dangerous. This is no longer however the case as abortion is considered one of the safest medical or surgical procedures performed. As such the law is no longer required as women are no longer at risk of harm by doctors providing abortion services in Queensland in 2016.

I would argue that an unplanned pregnancy can often result in a much loved and wanted child. However if that pregnancy remains unwanted the child will suffer and unfortunately I have seen this unwanted child suffer far too often.

I recognise that life has changed drastically since 1899 and that today the cost of living often requires two incomes and that financial hardship puts additional strain on relationships. This in turn can lead to domestic violence and family hardship. Many of the Patients I see are either young people in low income employment, students or couples who cannot afford to be out of work during a post-partum period. Some couples attend aged in their mid-forties with children in their teens and life on track. These people do not want to risk another pregnancy or to raise another child, neither do they want to go through a pregnancy and to give that child up for adoption.

In any week I will see a 45 yr old woman with a youngest child aged 12 years of age, her Husband may have had a vasectomy which has possibly failed or perhaps despite successful use of the combined oral contraceptive for many years she has found herself pregnant. They know they cannot do this again, she has a bad back, and they are busy professionals, they already run around with their teenage children all weekend with friends and sport and other extracurricular activities. Physically she is not fit for another pregnancy, emotionally and financially they are not wanting any more children, they want to provide the best they can for the children they have. They don't want to be taking their child to pre-school in their fifties. For women to ever be considered equal to men in society we cannot continue to be held hostage to our

reproductive biology. We must have the freedom to choose when or indeed if we have children without fear of criminal prosecution.

With regard to the provision of counselling and support services for women. The abortion clinics I have been involved with have all offered counselling services for women. I am proudly a member of Australia's only pro-choice independent counselling service for women based in Queensland, "Children by Choice" is available for all Queensland women who require counselling regarding their options for unplanned pregnancy including parenting, adoption, and abortion. This organisation also provides support for contraceptive utilisation and for women in situations of domestic violence or at risk of domestic violence.

On 26 May 2016 the Parliament agreed that concurrent with its consideration of the Bill, the committee is to consider, report and make recommendations on aspects of the law governing termination of pregnancy in Queensland to the House on options regarding:

- existing practices in Queensland concerning termination of pregnancy by medical practitioners. I believe my submission addresses the points of reference for the committee.

- Existing legal principles that govern termination practices in Queensland
- The need to modernise and clarify the law (without altering current clinical practice), to reflect current community attitudes and expectations
- Legislative and regulatory arrangements in other Australian jurisdictions including regulating terminations based on gestational periods, and
- Provision of counselling and support services for women

I would be happy to discuss the issues personally with the committee if this would be of assistance with your decision process.

Sincerely,

Dr Janet Fairweather.
FRACGP, MBBS (UQ), BSc(Biomedical), Dip. Child Health.