THE AUSTRALIAN CLINICAL PSYCHOLOGY ASSOCIATION

Submission to the Health, Communities, Disability Services, Domestic and Family Violence Prevention Committee
Queensland Parliamentary Service on the Health (Abortion Law Reform) Amendment Bill2016

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Re: Health (Abortion Law Reform) Amendment Bill 2016

Thank you for the opportunity to comment on the private member's Bill introduced by Mr Rob Pyne MP, Member for Cairns. As a peak organization representing qualified clinical psychologists throughout Australia the Australian Clinical Psychology Association (ACPA) welcome this Bill to decriminalise abortion and ensure women's safe, timely access to abortion services.

Clinical Psychologists are not lawyers and cannot speak to the specific legal nuances of the Bill and its enforcement. Clinical psychologists have specialist practitioner and research expertise in assessing, diagnosing and treating mental ill health and facilitating mental well-being. Our expertise includes understanding the risk and protective factors associated with mental health. Crucial associations exist between mental health and trauma, stress, stigma, physical health care, human rights, support and so on. This expertise is pertinent to abortion provision and to consideration of the Health (Abortion Law Reform) Amendment Bill 2016.

Below we respectfully proffer our opinion highlighting the Bill's strengths, and aspects of concern.

Underpinnings and Aims of the Bill

Legislative change in this area of women's health is essential and urgent.

We applaud a framework recognising that abortion is a common and integral part of family planning options and reproductive health services (Chan & Sage, 2005; Rosenthal, Rowe, Mallet, Hardiman & Kirkman, 2009).

We note that the Bill sensibly shares similarities with the decriminalisation of abortion and safe access zone legislation in ACT, Victoria and Tasmania, and is inclusive of both surgical and medical abortion.

Research indicates that typically women experience heightened distress facing a problem pregnancy, and experience relief and improvement following an elective abortion. Rigorous research also indicates the serious adverse physical, psychological, emotional and social costs of stigmatisation, shaming, discrimination and violence, including in the area of abortion (Astbury & Allanson, 2009; Humphries, 2011; Major & O'Brien, 2005).

Sitting shamefully with this body of research, is the reality that abortion provision in Queensland currently: occurs in a space of criminalisation and legal ambiguity; and involves harassment, discrimination, stigma and human rights violations for women, their families and abortion providing staff. Both abortion-providing staff and women seeking abortion currently are criminalised. Both suffer anti-abortion extremists' harassment, intimidation and violation of their human rights to self-determination, privacy, respect, safety, and more.

The disturbing situation in Queensland is similar to that faced by women and abortion providing staff in other Australian states prior to those states enacting legislation to decriminalise abortion and provide safe access zones (See, for example, anecdotal and research evidence presented to the Victorian Supreme Court in the case of The Fertility Control Clinic v Melbourne City Council, 2015; and evidence based submissions to the ACT, Tasmanian, and Victorian abortion decriminalisation and safe access zone legislations).

Following the Victorian State government's referral of the law of abortion to The Victorian Law Reform Commission (VLRC), the VLRC 2008 comprehensive *Law of Abortion: Final Report* concluded:

> *The safety and wellbeing of women using abortion services, and any other medical facilities, is a matter of significant importance (8.271, p 139).*
>
> *There is understandable community concern about safety and well being of staff and patients at the hospitals and clinics where people protest or stage vigils because of their views about abortion. The Commission encourages the Attorney-General to consider options for a legislative response to this issue. (8.273, p.140)*

Safe access zones in international jurisdictions have provided an effective solution and have survived legal challenges over decades (Dean & Allanson, 2004). The Equal Opportunity and Human Rights Commission supports the human rights validity of safe access zones. Safe access zone legislation in other Australia states has put a stop to anti-abortion harassment (Allanson, 2016).

By decriminalising abortion and providing for safe access zones, the Bill supports women's right to make reproductive health decisions free of legal, physical and psychological intimidation. The Bill normalises abortion access and care, de-stigmatises women having abortion and medical professionals providing abortion, and provides safety for both those accessing, and providing, abortion health services.

Areas of Concern

Division 2: 21 Abortion on woman more than 24 weeks pregnant:

The Bill's support of women as decision makers about their own bodies, health and way of life is one of its strengths. The Bill's support of women making an abortion decision within a doctor-patient relationship is a strength.

2: 21 creates an unnecessary disparity between the Bill's assumption of a woman's ability to make her own decision (within the doctor-patient relationship) prior to 24 weeks, but not after a pregnancy is 24-weeks gestation. There also is disparity between the Bill's faith in the doctor-patient relationship and the doctor's professional and ethical care prior to 24 weeks, but not when a woman's pregnancy is post 24-weeks gestation. The Bill

specifies criteria the doctor must consider, places the doctor as an abortion gate keeper, and requires the doctor consult a colleague who also must agree the woman fits the specified criteria.

2: 21 may undermine the woman as decision maker, compromise the woman's right to confidentiality, undermine the doctor-patient relationship, and be offensive to the strict and high standards of professional care Australian doctors must abide by via existant regulations and professional standards.

In practice (the fraction of 1% of) women who present for termination after 24 weeks gestation face complex and difficult situations placing them in a vulnerable physical and psychological position both before and subsequent to a termination. Australian doctors already are required to prioritise the wellbeing of their patients, and seek appropriate support from colleagues.

Division 2: 22 Duty to perform or assist in abortion.

Women with a problem pregnancy can consult a variety of registered and unregistered health practitioners and counsellors. While no rigorous study exists in this area, anecdotally ACPA members have been consulted by women harmed by unwittingly seeking abortion information or care from anti-abortion counsellors and health professionals including GPs. Women's early contact with health professionals objecting to abortion can be a significant barrier causing delays in women accessing evidence-based information and consultations, and delays in accessing timely abortion (if that is what they elect to do).

2: 22 may result in adverse consequences, not consistent with the aims of the Bill. Entitlement to refuse to "assist" must not allow entitlement for that doctor to refuse to advise the woman of the doctor's anti-abortion beliefs, and/or refuse to refer the woman to a doctor who does not hold anti-abortion beliefs.

The Victorian abortion decriminalisation legislation included a requirement, inter alia, that anti-abortion health practitioners and counsellors (consulted whether or not for fee or reward) must refer the woman to a practitioner/counsellor who does not object to abortion as a pregnancy option. The Bill's inclusion of such a requirement would remove ambiguity from 2: 22 and protect women's decision making capacity and timely care.

Division 3: 23 Declarations for abortion facility.

Like the ACT proposed safe access zone legislation, 3: 23 specifies an apparently ongoing role for the Minister of the day in declaring safe access zones. This may provide flexibility in meeting the diverse settings of abortion providing services with regard to "a minimum of 50m" zone and hours of operation. We are not sure if 3: 23 also reflects a way to address a peculiarity in Queensland laws. However, international, Tasmanian and Victorian safe access zone legislation did not think ministerial declarations necessary. We are concerned about the possible untested and unexpected adverse

consequences created by what may politicise safe access zones with an unnecessary ministerial requirement.

Conclusion

By decriminalising abortion, the Bill protects physical and mental health by removing the threat, stigma, shaming, discrimination and human rights violations caused by criminalising what is an essential women's health service and reproductive choice.

Anti-abortion extremism is a form of violence against women. The Bill protects women's physical and mental health when accessing abortion services by removing the threat, stigma, shaming, harassment, violence and other human rights violations caused by anti-abortion extremists. The Bill ensures respect and safety for children and adults accompanying women to abortion-providing services. The Bill ensures respect and safety for abortion-providing staff.

We have respectfully offered suggestions about 2: 21, 2: 22 and 3: 23 which we hope will strengthen the Bill's ability to ensure women's right to bodily autonomy, decision-making capacity about their reproductive health, participation in society, and access to health services in an atmosphere of respect, privacy, safety and care.

We congratulate Mr Rob Pyne MP, the Health, Communities, Disability Services, Domestic and Family Violence Prevention Committee, and all those who have worked to achieve this landmark Bill. We hope our submission assists further discussion and amendments to the Bill, sees the Bill's safe passage through the Queensland parliament, and provides better health and health care for Queensland women and their families.

We are happy to discuss any aspects of our submission at any stage.

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