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Inquiry Secretary
Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee
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Wednesday, 5 October 2016

Re: *Health (Abortion Law Reform) Amendment Bill 2016*

To the Members of the Committee

Thank you for receiving my letter of submission to the *Health (Abortion Law Reform) Amendment Bill 2016* Inquiry. I appreciate the time and effort the Members of the Committee and their Parliamentary support staff are giving to this Inquiry.

Background to this letter of submission

As stated in my submission to the *Abortion Law Reform (Women's Right to Choose Amendment Bills and Inquiry into laws governing termination of pregnancy in Queensland* (Attachment A), I work as a professional counsellor for Children by Choice, Queensland's only standalone, pro-choice pregnancy counselling service. In this role I am also a member of the National Alliance of Abortion and Pregnancy Options Counsellors (NAAPOC), which is also making a submission to this Inquiry. I hold a Bachelor of Psychological Science (Honours) and a Graduate Diploma of Applied Law. Inevitably, my experiences as a pro-choice counsellor and in other roles in the social and community services sector will influence my personal letter of submission to the current Inquiry.

I shall address the matters for submission point by point below. As in my previous submission, I hope to lift up the voices of Queensland women who otherwise have been heard very little in the debate regarding abortion law reform in this state.

Only a doctor may perform an abortion

Abortions must be performed by trained, qualified and competent medical professionals

It is important that only trained, qualified and competent medical professionals perform abortions; unsafe abortions (both self-induced or provided by unqualified practitioners) are responsible for the deaths of approximately 47,000 women around the world every year[1]. That statistic highlights the importance of modernising Queensland's archaic abortion laws, so that women are less likely to self-induce an abortion due to a lack of access to safe, legal and affordable abortion services. In the financial year 2014-2015, Children by Choice recorded 118 contacts in which clients disclosed attempts or thoughts of self-induced

[1] United Nations Human Rights Office of the High Commissioner, Information Series on Sexual and Reproductive Health and Rights: Abortion, 2015. Retrieved from [redacted]

Submission No 880
Received 5 October 2016

abortion[2]. In my role as a professional pro-choice counsellor working for Children by Choice, I have spoken to many women who have considered self-induced abortion due to the difficulty of accessing safe, affordable and legal abortion services (i.e. as a result of a lack of public provision and the cost of a private procedure combined with travel and accommodation costs). This is not a choice these women want to make; it is a choice born of desperation and a firm conviction that they cannot and will not continue the pregnancy.

Abortion provision by other medical professionals

Section 2(b) of the *Bill* states that a registered nurse may perform an abortion by administration of a drug at the written direction of a doctor. The role of medical professionals other than doctors in direct abortion provision has been researched and implemented with considerable success in varied settings including California[3] and South Africa[4]. With specialised training, highly skilled medical professionals such as nurse practitioners and midwives are able to develop the capacity to safely provide medical abortion up to 9 weeks gestation and surgical abortion by vacuum aspiration in the first trimester of pregnancy[5]. Queensland's population is spread throughout a vast geographical area, with a significant proportion of the population living outside the greater metropolitan area of Brisbane[6]. The use of specially trained medical professionals such as nurse practitioners and midwives in regional, rural and remote Australia has the potential to provide safe, local abortion care to women who otherwise experience an unfair geographical disadvantage compared to their counterparts living in the greater metropolitan area of Brisbane. I therefore ask the Committee to consider including in the *Bill* other medical professionals such as nurse practitioners and midwives as legal abortion providers in Queensland.

Identifying the medical practitioners who are lawfully able to provide an abortion will I hope allay the fears of some people that there would be no remedy at law if a person performed an abortion on a woman without her consent.

A woman does not commit an offence

I support this incredibly important section of the *Bill*, as it will allay the very real fear that women have that they will be prosecuted for having an abortion. Had this *Bill*, or one similar to it, been passed and legislated before 2009, Cairns woman Tegan Leach[7] would not have been prosecuted and forced to endure 18 months of police and court processes and exposure to a massive and public invasion of her privacy[8].

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[2] Children by Choice, Annual Report, 2014-2015. Retrieved from H[redacted]

[3] Weitz, T., Taylor, D., Desai, S., Upadhyay, U., Waldman, J., Battistelli, M. & Drey, E. (2013). Safety of aspiration abortion performed by nurse practitioners, certified nurse midwives, and physician assistants under a California legal waiver. *American Journal of Public Health,* 103(3): 454-461. Retrieved from [redacted]; Nash, E., Benson Gold, R., Rowan, A., Rathbun, G. & Viewboom, Y. (2013). Laws Affecting Reproductive Health and Rights: 2013 State Policy Review. Guttmacher Institute: United States. Retrieved from [redacted]

[4] Dickson-Tetteh K. & Billings, D. (2002) Abortion care services provided by registered midwives in South Africa. *International Family Planning Perspectives,* 28(3): 144-150. Retrieved from [redacted]

[5] Goodman, S., Flaxman, G. & the TEACH Trainers Collaborative Working Group. TEACH Early Abortion Training Workbook, Fifth Edition. UCSF Bixby Centre for Global Reproductive Health: San Francisco, CA (2016). Retrieved from [redacted]

[6] Queensland Government, Interesting facts about Queensland, 2014. Retrieved from [redacted]

[7] *R v Brennan & Leach* [2010] QDC 329 Everson DCJ 2010 (delivered *ex tempore*). Retrieved from [redacted]

[8] See, for example, Carlisle, W. (2010, 15 October). Crown kicks own goal in Qld abortion trial. *ABC Online.* Retrieved from [redacted]

An abortion on a woman who is 24 weeks pregnant

I do not support a gestational limit for abortion at law, for the reasons already given in my previous submission (pp. 4-5, Attachment A) and as outlined so articulately by maternal fetal medicine specialists in hearings before the *Inquiry into Abortion Law Reform (Women's Right to Choose Amendment Bills and Inquiry into laws governing termination of pregnancy in Queensland*[9]. In spite of expert evidence to the contrary, the idea that women might have an abortion at any gestation – and that doctors might be able and willing to provide an abortion at any gestation – seems to have endured. Therefore in an effort to provide reassurance it is understandable that this provision has been included in the *Bill*, which is in line with the comparative *Abortion Law Reform Act (Vic) 2008*.

Conscientious objection

Rights and responsibilities at law

Conscientious objection is a matter already addressed by the medical community, as discussed in my previous submission (p. 5, Attachment A). If conscientious objection to abortion is to be addressed at law, then I believe that both the rights *and* the responsibilities of the conscientious objector should be addressed at law. Section 22 of the *Bill* achieves this only in part. I believe that medical professionals who are conscientious objectors have a responsibility to refer patients on to pro-choice medical professionals. To do otherwise is to engage in behaviour designed to coerce a woman to continue a pregnancy. It is important that the state of Queensland does not condone this coercive behaviour.

Failure of responsibility is a failure of women

I can speak to the effects of the failure of medical professionals to refer women on to pro-choice medical professionals. In my role as a professional pro-choice counsellor, women have told me that their doctor told them abortion was illegal or not available in Queensland, leaving the woman with no information about how she could safely access an abortion. Many women have told me how medical professionals advise them to (or words to the effect of) access antenatal care and just get used to the idea. Some of this advice by doctors may be borne of ignorance, which among other things such as the training requirements of doctors, speaks to the stigmatising effect of the criminalisation of abortion. However, the information I have received from women suggests that some doctors go well beyond failing in their responsibility to refer on to a pro-choice doctor and in fact engage in abusive behaviour themselves, deliberately providing misinformation about pregnancy and abortion and telling a woman that she would be murdering or killing her baby, or that the she would become a murderer or killer. The effect of this behaviour includes causing significant distress to the woman, delaying her presentation to a doctor or other service that can provide her with support or accurate information which in turn means a higher gestation abortion, or to coerce her into continuing a pregnancy. Inclusion of the responsibility to refer on in the *Bill* would place the onus on doctors to put their patient's interests ahead of their own.

Patient protection or 'safe zones'

The need for 'safe zones'

The need for safe zones was established by the Victorian Law Reform Commission[10] and has since been confirmed in legislation[11]. In my role as a professional pro-choice counsellor, I

[9] Queensland Parliament, Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee. Public Hearing – Inquiry into the *Abortion Law Reform (Woman's Right to Choose) Amendment Bill 2016* and Inquiry into Laws Governing Termination of Pregnancy in Queensland. Transcript of proceedings, Tuesday, 4 August 2016, Brisbane. Retrieved from [redacted]

[10] Law of Abortion: Final Report, 2008, pp. 138-140. Retrieved from h[redacted]

[11] *Public Health and Wellbeing Amendment (Safe Access Zones) Act (Vic) 2015*

Submission No 880
Received 5 October 2016

offer non-judgemental support to women weighing up their pregnancy options. I do not direct them which option to choose – abortion, adoption or parenting – and I do not advise them not to choose a particular option. Women – and others who may be involved in the woman's decision-making, including her partner or family members – choose to participate in counselling and have the right to withdraw from counselling at any stage.

Anti-choice individuals and groups who approach patients, support persons and staff outside abortion clinics often claim they are offering "counselling"[12]. The intervention of these anti-choice individuals and groups belies a woman's right – any person's right – to self-determination, including choosing whether or not to engage with an individual or organisation. Further, reports from patients, support persons and clinic staff make it clear that what is falsely classed as counselling by these anti-choice individuals and groups is actually intimidation and harassment, a strategy used by these groups and individuals to attempt to coerce a woman into making a different choice about her pregnancy. This is a form of reproductive coercion, abusive behaviour that occurs when a person or entity (including a state) attempts to coerce a person into making reproductive choices that they would not otherwise make[13]. This includes attempts by anti-choice individuals and groups to compel women to continue pregnancies that they have otherwise chosen to terminate.

I draw the Committee's attention to my comments regarding abortion stigma in my previous submission (p. 2, Attachment A), which are supported by evidence-based research. The harassment and intimidation of patients, support persons and staff by anti-choice individuals and groups can only add to the harmful stigma associated with abortion[14]. The aim of establishing safe zones outside abortion facilities is to reduce the risk of abuse, harassment and intimidation towards patients, support persons and staff. Therefore by creating safe zones outside abortion clinics, Queensland would help ameliorate the impact of stigma on the mental well being of Queensland women.

Free speech

Anti-choice individuals and groups also attempt to argue that the presence of a safe zone is a restriction on their freedom of speech[15]. It is not. Firstly, they are engaged in the abuse, intimidation and harassment of individuals rather than engaging in free speech. Secondly, they still have the freedom to communicate freely with political representatives and via all forms of media. If it is considered in terms of the balancing of rights, in whose favour should the balance be tipped? The rights of medical patients, support persons and staff to be free from abuse, intimidation and harassment; or the "rights" of anti-choice individuals and groups to abuse, intimidate and harass? I believe the answer is clear, and that the rights of patients, support persons and staff to be safe outweighs the alleged "rights" of anti-choice individuals and groups to abuse them.

[12] See, for example, Culp-Ressler, T. (2014, 8 July). Protestor admits that harassing women outside of abortion clinics doesn't work. *ThinkProgress*. Retrieved from [redacted];

[13] Children by Choice, Reproductive Coercion, 2016. Retrieved from [redacted]

[14] See, for example, Stevens, T. (2015, 11 November). Counsellors on helping women upset by abortion protests. *The Morning Bulletin.* Retrieved from [redacted]

[15] See, for example, Bevin, E. (2016, 19 September). Anti-abortion protester Graham Preston to be first to appeal conviction under Tasmanian law. *ABC Online.* Retrieved from [redacted]

Size of the 'safe zone'

I believe 50m to be an insufficient size for the proposed safe zone, as it still easily allows anti-choice individuals and groups the capacity to perpetrate abuse, intimidation and harassment against clinic patients, support persons and staff. The 50m safe zone (or "exclusion zone") initially adopted by the ACT has proved insufficient to prevent the harassment and intimidation of patients, support persons and staff at a major abortion clinic in Canberra[16]. I hope that Queensland will learn from the ACT experience and that the Committee will recommend a safe zone of 150m in line with comparative Victorian and Tasmanian legislation[17].

Stepping into the shoes of women

I ask the Members of the committee to consider what it would be like to attend an abortion clinic, either as a patient or a support person, and to be subjected to abuse by anti-choice individuals or groups. I ask the Members of the Committee in particular to consider what this experience might be like for women (and their support persons) who have travelled from regional, rural or remote areas and who have had to travel away from all that is familiar because abortion services are not provided locally. Imagine if English was not your first language, or if you had a history of trauma and abuse, or if you already had to keep your choice to have an abortion secret because of judgement and stigma. Clearly, being confronted by abuse, intimidation and harassment outside an abortion clinic – a medical facility licensed by Queensland Health – has the potential to be an extremely distressing experience, and I can attest to this as a counsellor who has spoken to patients, support persons and abortion clinic staff about the impacts of the behaviour of anti-choice individuals and groups outside abortion clinics in Queensland.

A personal anecdote

In 2015 I attended an abortion conference. A man – notorious for his harassment of women and others outside abortion clinics – stood outside the entrance to the conference, holding a manipulated image of a fetus. As I walked past, he told me to thank my mother for not having an abortion. This person had confederates placed at other points up and down the street, also holding up signs featuring manipulated imagery and inaccurate information about pregnancy gestation.

I called my mother after the conference and told her what the man had said. The outcome of the conversation – not the first conversation we've had about reproductive justice – was that my mother and I reaffirmed our support of each other's right to choose to have an abortion if that is what either of us chose. My mother chose to continue the wanted pregnancy that resulted in me. I am absolutely comfortable with the possibility that in different circumstances she might have chosen to have an abortion, and that I would not be here. That would have been her choice, and her right.

<u>Conclusion</u>

The Queensland Parliament has in the past taken significant and much-needed steps towards social justice in our state, including the decriminalisation of suicide in 1979 and the decriminalisation of homosexuality in 1990. The Committee now has an opportunity to recommend another historic step forward in Queensland's history: the decriminalisation of abortion.

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[16] Back, A. & Knaus, C. (2016, 18 May). Police extend abortion clinic exclusion zone as first fine withdrawn. *The Canberra Times.* Retrieved from [redacted]

[17] *Public Health and Wellbeing Amendment (Safe Access Zones) Act (Vic) 2015*; *Reproductive Health (Access to Terminations) Act (Tas) 2013*

I strongly support the decriminalisation of abortion in Queensland, and the repeal of sections 224, 225 and 226 from the *Criminal Code 1899*. Whilst I have made suggestions for amendments to the *Bill*, I hope that the proposed reforms laid out in this new *Bill* will at least address the Committee's concerns with a straight repeal of the *Criminal Code 1899* statutes. To this end, I support the *Health (Abortion Law Reform) Amendment Bill 2016*, in conjunction with the *Abortion Law Reform (Women's Right to Choose) Amendment Bill 2016*. I strongly urge the Committee to recommend that both *Bills* be debated and voted on together as a package on the floor of Parliament, to reflect the intent of the two *Bills*.

I will paraphrase in part the conclusion to my previous letter of submission (p. 8, Attachment A), as it continues to be relevant. Countless women throughout history have made the choice to have abortions, and they will continue to do so. We can continue to condemn women to being silenced and stigmatised; the state of Queensland can continue to punish our women – ourselves, our mothers, sisters, daughters, friends, colleagues and others – for daring to make their own choices. Or, as a state, we can take the compassionate path – which is also the path most in line with evidence-based, peer-reviewed research and best practice – and allow women to access safe, legal and affordable abortion procedures when that is their choice.

Yours sincerely

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