**The Royal Australian and New Zealand College of Obstetricians and Gynaecologists**

*Excellence in Women's Health*

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# Queensland Parliament

## Health, Communities, Disabilities Services and Domestic and Family Violence Prevention Committee

## Health (Abortion Law Reform) Amendment Bill 2016 – RANZCOG Response

The Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG) welcomes the opportunity to provide this submission to the Health, Communities, Disabilities Services and Domestic and Family Violence Prevention Committee regarding the Health (Abortion Law Reform) Amendment Bill 2016.

### General Comments

RANZCOG is the lead standards body in women's health in Australia and New Zealand, with responsibility for postgraduate education, accreditation, recertification and the continuing professional development of practitioners in women's health, including both specialist obstetricians and gynaecologists, and GP obstetricians.

The College is committed to improving the health and wellbeing of all women, and to the advancement of knowledge of the health effects of pregnancy and pregnancy termination. The College acknowledges that people may have strong personal beliefs about termination of pregnancy.(1)

The prevention of unintended pregnancy should be a priority. RANZCOG supports broad community education (including in schools), with regard to sexual and reproductive health including relationships, safe sex and contraception. RANZCOG specifically supports ready access to as wide a range of safe and reliable contraceptive measures as possible.(1)

The non-availability of termination of pregnancy services has been shown to increase maternal morbidity and mortality in population studies.(2)

On 17 August 2016 Mr Rob Pyne MP introduced the Health (Abortion Law Reform) Amendment Bill 2016 as a Private Member's Bill. The Bill seeks to improve clarity for health professionals and patients in the area of medical termination of pregnancy and seeks to clarify when care can be imparted and to avoid prolonged approval and ethics processes (not conducted for the benefit of patients' wellbeing but to substantiate lawfulness).

The following submission provides RANZCOG's view on the five main aspects of this Bill.

1. Only a doctor may perform an abortion - a person who is not a doctor (or a registered nurse administering a drug to perform an abortion under the direction of a doctor) would commit an offence.

   *Recommendation*

   The College supports that only doctors or those under the direction of a doctor perform an abortion under the direction of a doctor.

   *Rationale*

   Abortion remains a procedure that must be undertaken by a medical practitioner or under the direction of a medical practitioner. Although in most circumstances it is safer for the mother to have an abortion than to continue with the pregnancy, the performance of an abortion has complexities that mandate a medical background in order to minimise the risk of adverse consequences.

2. A woman does not commit an offence by performing, consenting to or assisting in an abortion on herself

   *Recommendation*

   The College believes that by seeking or assisting with an abortion, a woman is not committing an offence.

   *Rationale*

   Where a woman elects to have a medical abortion, it may be perfectly appropriate for her to self-administer the medication under medical supervision. Although extremely undesirable for women to "self-medicate" abortion producing drugs or even attempt self-administered surgical procedures, the College does not believe that such belongs in the criminal code. With improved legislation and patient education, these procedures become completely redundant.

3. An abortion on a woman who is more than 24 weeks pregnant may be performed only if two doctors reasonably believe the continuation of the woman's pregnancy would involve greater risk of injury to the physical or mental health of the woman than if the pregnancy were terminated.

   *Recommendation*

   RANZCOG supports agreement by two medical practitioners where the woman is more than 24 weeks pregnant. The College strongly believes that there should not be a specified gestation range and that late termination of pregnancy must be an option available to women.

   *Rationale*

   Decisions around timing of termination of pregnancy may become more complex in the presence of some specific fetal conditions, multiple pregnancy, late recognition of pregnancy, advancing gestational age and pre-existing maternal disease. The non-availability of late termination of pregnancy may place these women in an untenable position of having to make decisions at times when information is not available or a healthy co-twin is potentially endangered.(4)

   Gestational limits vary across the States and Territories where abortion is decriminalised but all have the capability of late termination of pregnancy. Uniformity and clarity of legislation would benefit both health practitioners and the women for whom they care.

RANZCOG notes that there are instances where either a State requires or a hospital forms a panel to make decisions affecting an individual woman in respect of the adequacy or not of grounds for termination of pregnancy. These panels restrict the rights of women in two respects:

- Firstly, a panel is a gross infringement of privacy in this the most sensitive of all health matters. It is the view of the College that a minimum number of individuals should be involved in accessing the information and making decisions for a woman in this most private and personal of matters.
- Secondly, experience elsewhere has shown that panels are frequently dysfunctional in that as the numbers of clinicians empowered to make decisions these decisions expand, there is an increasing likelihood that individuals with varying degrees of prejudice against termination of pregnancy come to influence the decision making around the needs of individual women.

4. Conscientious objection: no-one is under a duty to perform or assist in performing an abortion; however a doctor has a duty to perform an abortion if it is necessary to save a woman's life or prevent serious physical injury. Also, a registered nurse has a duty to assist in such circumstances.

*Recommendation*

The College believes that clinicians should have the right to refuse performing an operation and removal of illegality.

However, in the event that a clinician is ethically opposed to abortion, the College supports an obligation to refer to a doctor who does not have a conscientious objection.

*Rationale*

The College is supportive the Australian Medical Association (AMA) statement Conscientious Objection – 2013 and in particular the following points:

- *A doctor who makes a conscientious objection to providing, or participating, in certain treatments or procedures should make every effort in a timely manner to minimise the disruption in the delivery of health care and ensuing burden on colleagues.*
- *The doctor needs to take whatever steps are necessary to ensure the patient's access to care is not impeded.*
- *A doctor should always provide medically appropriate treatment in an emergency situation, even if that treatment conflicts with the doctor's personal beliefs and values.*

The College supports an obligation to refer to a doctor who does not have a conscientious objection because failure to refer can lead a vulnerable patient to lose valuable days or weeks as she attempts to navigate the health system in order to access her desired service.

5. Patient protection or 'safe zones': a protected zone of at least 50 metres must be declared around an abortion facility; certain behaviour, e.g. harassment and intimidation, is prohibited within a protected zone. Publishing images of a person entering, leaving or trying to enter or leave an abortion facility is prohibited.

*Recommendation*

The College strongly believes that patient protection or "safe zones" should be declared around abortion facility where certain behaviour e.g. harassment and intimidation is prohibited within a protected zone.

*Rationale*

The three States that have decriminalised abortion (Victoria, Tasmania and the Australian Capital Territory) have all legislated safe access zones around health facilities where abortions are performed. The major legal objections to safe access zones in Australia have been expressed as constitutional objections, focused on the argument that such provisions infringe the right of protesters to freedom of speech.

Patient protection or safe zones do not prevent those who oppose abortion from holding such views. People remain free to express their views, just not in a place that prevents women from exercising their right to privacy and reproductive health care.

## Summary Key Points

The College:

- Commends Mr Pyne and the Queensland legislature on the Health (Abortion Law Reform) Amendment Bill 2016.
- Supports that only doctors or those under the direction of a doctor perform an abortion under the direction of a doctor.
- Believes that by seeking or assisting with an abortion, a woman is not committing an offence.
- Supports agreement by two medical practitioners where the woman is more than 24 weeks.
- Believes that clinicians should have the right to refuse performing an operation and removal of illegality. However, in the event that a clinician is ethically opposed to abortion, the College supports an obligation to refer to a doctor who does not have a conscientious objection.
- Strongly believes that patient protection or "safe zones" should be declared around abortion facility where certain behaviour e.g. harassment and intimidation is prohibited within a protected zone.

## References

1. The Royal Australian and New Zealand College of Obstetricians and Gynaecologists. Termination of Pregnancy (C-Gyn 17). Available at: [redacted] 2013.
2. World Health Organization. Unsafe abortion: global and regional estimates of incidence of unsafe abortion and associated mortality in 2000. Available at: [redacted] Geneva: 2004.
3. Sedgh G, Bearak J, Singh S, et al. Abortion incidence between 1990 and 2014: global, regional, and subregional levels and trends. The Lancet. Published Online: 11 May 2016.
4. The Royal Australian and New Zealand College of Obstetricians and Gynaecologists. Late Termination of Pregnancy (C-Gyn 17a) Available at: [redacted]. 2016.
5. Australian Medical Association. Conscientious Objection 2013. Available at: https://[redacted]