

Termination of Pregnancy (Live Births) Amendment Bill 2024

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Submitter Comments:

Mr Aaron Harper, MP
Chair, Health, Environment and Agriculture Committee
Parliament House
George Street
BRISBANE QLD 4000

Email: heac@parliament.qld.gov.au

Dear Mr Harper,

Re: Termination of pregnancy (Live births) Amendments Bill 2024

The Australian College of Midwives (ACM) and the Australian College of Nursing (ACN) would like to thank the Health, Environment and Agriculture Committee for the opportunity to comment on the **Termination of Pregnancy (Live Births) Amendments Bill 2024**. As a joint response by ACM and ACN, we would like to acknowledge that these proposed amendments are personal and sensitive in nature.

Australian College of Midwives

ACM is the national peak professional body for midwives in Australia. ACM represents professional interests and supports the midwifery profession to enable midwives to work to full scope of practice. ACM also ensures better health outcomes for women, babies and their families. Midwives are primary care providers working directly with women in public and private healthcare settings across all geographical regions (metropolitan, regional, rural and remote). There are over 33,000 midwives in Australia, of whom 1,195 are endorsed to prescribe scheduled medications.¹

Australian College of Nurses

ACN is the national peak professional body for nurses in Australia, advocating for access to health equity for all people through expert-informed and person-centred care² across the lifespan, including health outcomes for both the women giving birth and their children born or unborn. Patient-centred care and autonomy for healthcare consumers are at the forefront of ACN's strategic intent.³

ACM and ACN advocate for respectful maternity care and choice, access and equity to sexual and reproductive health and maternity care for all women, regardless of their cultural background or geographical location in Australia. This access includes pregnancy termination services, a reproductive and legal right in Australia. The decision to provide a termination of pregnancy is made in partnership with the woman and her healthcare professional. All health professionals involved in

¹ Nursing and Midwifery Board of Australia, 2024. [Statistics](#).

² Australian College of Nursing (2020). Position statement: Person-centred care. <https://www.acn.edu.au/wp-content/uploads/position-statement-person-centred-care.pdf>

³ Ibid.

the termination of pregnancy should be familiar with legislation relevant to the jurisdiction in which the procedure is sought. (refer to Queensland Clinical Guidelines, 2019, as an example).⁴

ACN and ACM noted that these changes align with the current legislation in South Australia and New South Wales. We also acknowledge that this amendment reflects the current Queensland clinical guidelines for termination of pregnancy.⁵

The response to this inquiry will focus on issues and concerns that directly impact nurses, midwives, and the people to whom they provide care. We cannot comment on matters of the law; however, we can provide feedback and potential solutions to the issues that contravene fundamental human rights.

Before proposing any amendments, clarification is required on the concept of fetal viability. Neonatal viability depends on factors affecting survivability.⁶ It must also be noted that over the ten years between 2005 and 2015, there has been an increase in the percentage of healthcare professionals who consider the chance of neonates, born at 24 and 25 weeks, surviving after resuscitation. In alignment with this data, the number of healthcare professionals who would agree with parental wishes not to resuscitate a neonate has decreased over this period.⁷ For a woman in Victoria expected to give birth to a baby at 24 weeks of pregnancy, information on the chances of the baby surviving is detailed on a printed information sheet.⁸ Women are advised of their choices, and the decisions they may have to take are provided before they give birth, including statistics on the baby's survival after one year. From the COAG Woman-centred care strategy⁹, ACM notes that this approach is reflected in the following:

Three areas inform shared decision-making between the woman and maternity service providers. They are a woman's preference, evidence as it applies to the woman and the context of care provision.

In various jurisdictions across Australia, there are gestational age limits concerning terminations of pregnancy. For instance, as per the Queensland Termination of Pregnancy Act 2018, a woman can request a termination of pregnancy before 22 weeks gestation following consultation with a single medical practitioner. However, if the gestation exceeds 22 weeks, additional considerations come into play, as outlined in the current Queensland Termination of Pregnancy Act. Late gestation termination requests typically involve complex contributory factors. Flowers¹⁰ asserts that late termination of pregnancy primarily occurs due to psychosocial reasons, including factors such as

⁴ Queensland Clinical Guidelines, 2020. [Termination of pregnancy. Guideline No. MN19.21-V9- R24.](#)

⁵ Queensland Health, 2023. [Queensland Clinical Guidelines. Supplement: Termination of pregnancy](#)

⁶ Queensland Health, 2020. [Queensland Clinical Guidelines. Perinatal care of the extremely preterm baby.](#)

⁷ Hogan, S., Lui, K., & Kent, A. L. (2019). Perceptions of Australian and New Zealand clinicians caring for neonates born at the borderline of viability have changed since the 2005 consensus guideline. *Journal of paediatrics and child health*, 55(12), 1429–1436. <https://doi.org/10.1111/jpc.14434>

⁸ Safer Care Victoria, 2020. [Babies born preterm at 24 weeks of pregnancy.](#)

⁹ COAG Health Council, 2019. [Woman-centred care: Strategic directions for Australian maternity services](#)

¹⁰ Flowers P. 2020. [Late termination of pregnancy: an internationally comparative study of public health policy, the law, and the experiences of providers](#) (report for the Catherine Helen Spence Scholarship). Nov 2020.

undiagnosed pregnancy, geographical barriers, or financial constraints. ACM and ACN make the following comments on the proposed amendments to the Bill the *Termination of Pregnancy Act 2018* (Act):

9A Care of a person born after termination.

- (1) This section applies if a termination results in a person being born.**
- (2) Nothing in this Act prevents a relevant person for the termination from exercising any duty to provide the person who is born with medical care and treatment that is—**
 - (a) clinically safe, and**
 - (b) appropriate to the person’s medical condition.**

ACM and ACN call for clarity regarding the strategies implemented to support the Termination of Pregnancy (Live Births) Amendments Bill 2024. We support the inclusion of the definition of appropriate care or treatment. For example, appropriate healthcare strategies, including palliative care measures, may sometimes be considered appropriate and necessary.

Palliative care services are essential healthcare options for all healthcare consumers at all stages of life. Palliative care includes integrative and multidisciplinary interventions that grant the neonate comfort.

Care provisions should also include support for families impacted by a loss. ACN emphasises the importance of person-centred care¹¹ tailored to individual families' needs and requests, and ACM asserts that all women should have access to continuity of midwifery models of care.

ACN acknowledges that within the current bill, some guidance needs to be provided to decide whether life-sustaining intervention or comfort care should be provided. ACM and ACN suggest this will help health practitioners provide comprehensive medical care appropriate to the situation.

- (3) To avoid any doubt, it is declared that the duty owed by a registered health practitioner to provide medical care and treatment to a person born as a result of a termination is no different from the duty owed to provide medical care and treatment to a person born other than as a result of a termination.**

ACM and ACN advocate for access to medical care and treatment for all people, including neonates. This section of the amendment supports health professionals involved in the termination procedure and the dignity of life for babies born alive after a termination. It is essential when exploring the amendment involving 'duty of care' that the ACM and ACN acknowledge the need to address the complexities inherent in the termination of pregnancy.

Providing care and treatment to a newborn born as a result of termination requires consultation with the birth mother, and consent needs to be considered to ensure value-based health care. Care

¹¹ Australian College of Nursing (2020). Position statement: Person-centred care. <https://www.acn.edu.au/wp-content/uploads/position-statement-person-centred-care.pdf>

should not solely rely on the health practitioners' clinical judgement. In a situation where the newborn survives, it is essential to have a process to support health practitioners, parents and/or Child Services to ensure appropriate care is provided. This should be discussed and developed during the consent consultation before the procedure to ensure the safety of the persons involved, including the newborn.

(4) In this section—

relevant person, for a termination resulting in a person being born, means—

- (a) if the termination is performed under section 5 or 6—the medical practitioner who performed the termination or**
- (b) if the termination is performed under section 6A—the registered health practitioner who performed the termination; or**
- (c) a prescribed practitioner who is present when the person is born or**
- (d) A prescribed student assisting a medical practitioner is mentioned in paragraph (a), and a registered health practitioner is mentioned in paragraph (b) under section 7(3), who is present when the person is born.**

Consistency in the Termination of Pregnancy (Live Births) Amendments Bill 2024 is vital to ensure the safety and protection of legislation, especially regarding student involvement. Providing a clear definition of 'relevant person' reduces ambiguity regarding clinical responsibility. ACM and ACN emphasise the importance of clarity and consistent messaging in defining a relevant person. It is pivotal if students are included in the bill as "present at the time" that direct clinical supervision is appropriately met by a registered health practitioner. Within the definition of 'student,' transparency is required to include all students under the law licensed to be involved in or witness to the termination of pregnancy, such as medical, nursing, midwifery and Aboriginal and Torres Strait Islander health practitioners. ACM and ACN note that as part of the Act, if students are recognised as 'relevant persons', they are within their rights, according to the current legislation, to conscientiously object to being involved in the termination of pregnancy.

ACM and ACN state that they support the above amendments but request that an additional amendment be included.

Recommendations

An additional clause be added to the Termination of Pregnancy (Live Births) Amendments Bill 2024 as follows:

The duty owed by a registered health practitioner is to offer counselling options to the woman or any other parties involved in the termination of pregnancy procedure.

Further, ACM and ACN recommend that before and following the termination of pregnancy, every woman should have access to counselling services facilitated by registered counsellors, psychologists, or mental health practitioners. These sessions should include discussions about

potential outcomes of the termination to ensure the woman's informed consent, unaffected by altered mental states. Additionally, it is crucial to inform the woman about the possibility of a live birth and her duty of care to the fetus if it is born alive. This information empowers the woman to recognise signs of life and make informed decisions regarding the outcome, fostering collaborative decision-making about the care and treatment of any newborn.

Furthermore, ensuring the appropriate clinical supervision and counselling of health professionals involved in the procedure is imperative. Support services should also be readily available to address the heightened emotions, distress, and uncertainties associated with such situations.

If you require further information, please do not hesitate to contact ACM Chief Midwife Alison Weatherstone at [REDACTED] or Dr Carolyn Stapleton at [REDACTED].



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Chief Executive Officer
Australian College of Midwives

10 May 2024

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W: [REDACTED]



Emeritus Professor Leanne Boyd FACN
Interim Chief Executive Officer
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10 May 2024

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