



# Submission to

## The Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee

### *Health (Abortion Law Reform) Amendment Bill 2016*

October, 2016

## Introduction

The Queensland Nurses' Union (QNU) thanks the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee (the Committee) for the opportunity to make a submission to the inquiry into the *Health (Abortion Law Reform) Amendment Bill 2016* (the new bill).

Nursing and midwifery is the largest occupational group in Queensland Health (QH) and one of the largest across the Queensland government. The QNU is the principal health union in Queensland covering all categories of workers that make up the nursing workforce including registered nurses (RN), registered midwives, enrolled nurses (EN) and assistants in nursing (AIN) who are employed in the public, private and not-for-profit health sectors including aged care.

Our more than 54,000 members work across a variety of settings from single person operations to large health and non-health institutions, and in a full range of classifications from entry level trainees to senior management. The vast majority of nurses in Queensland are members of the QNU.

### ***Health (Abortion Law Reform) Amendment Bill 2016***

The committee will be aware of the QNU's submission to and appearance at the recent inquiry into the *Abortion Law Reform (Woman's Right to Choose) Amendment Bill 2016 and Laws governing Termination of Pregnancy in Queensland*. As the major health union in Queensland and a regular voice in the public debate, it was appropriate for the QNU to submit to that parliamentary inquiry.

Following its deliberations, the Committee recommended the *Abortion Law Reform (Woman's Right to Choose) Amendment Bill 2016* not be passed by the parliament. While the QNU council has considered some aspects of the new bill, another inquiry into more detailed changes to the *Health Act 1937* would seem redundant given the committee's recommendation in respect to the initial bill.

It remains the view of the QNU that sections 224, 225 and 226 of the *Criminal Code 1899 (Qld)* (the Code) must be removed in the first instance so that women and those who assist them are free of prosecution. This is the threshold matter. As we have argued, the Code is not the appropriate mechanism for regulating a medical procedure. Abortion provisions should be removed from this legislation and remain subject to appropriate health regulations.

While we recognise the new bill may meet our secondary contention by amending the *Health Act 1937*, it would be at odds with the provisions in the Code.

The QNU recommends:

The parliament considers both the *Abortion Law Reform (Woman's Right to Choose) Amendment Bill 2016* and the *Health (Abortion Law Reform) Amendment Bill 2016* at the same time as they are complementary bills.

We offer the committee some guidance around the following matters contained in the new bill.

### **Clause 20 - Only a qualified health practitioner may perform abortion**

The QNU suggests clause 20 (2) should be amended to read

For subsection (1)—

(a) a doctor **or Nurse Practitioner (for the purposes of prescribing or administering a drug only)** is a qualified health practitioner;

It is within the defined scope of practice for a Nurse Practitioner to prescribe Misoprostol, a pharmaceutical that continues the process of medical termination.

### **Clause 22 - Duty to perform or assist in abortion**

It is the policy of the Australian Nursing and Midwifery Federation<sup>1</sup> (2015), the peak nursing union body to which the QNU is affiliated, that:

- Nurses and midwives have a right to refuse to participate in procedures which they judge, on strongly held religious, moral and ethical beliefs, to be unacceptable (Australian Nursing and Midwifery Council, Royal College of Nursing Australia, Australian Nursing Federation, 2008, p.6; Australian Nursing and Midwifery Council, Royal College of Nursing Australia, Australian Nursing Federation, 2008, p.7).<sup>2</sup>
- In exercising their conscientious objection, nurses and midwives must take all reasonable steps to ensure that quality of care, patient safety, and advance care directives are not compromised. Subject to their scope of practice, nurses and

<sup>1</sup> Previously the Australian Nursing Federation

<sup>2</sup> Value statement 1: Nurses value quality nursing care for all people, and  
Value statement 1: Midwives value quality midwifery care for each woman and her infant(s)

midwives in the course of their employment, must not refuse to carry out urgent procedures which are life-saving measures.

- In situations of conscientious objection, the nurse or midwife should express a desire not to participate in that procedure, in advance if possible. The employer must allow the nurse or midwife to leave the area or not participate in the procedure as soon as practicable without any discriminatory or adverse action being taken.
- No discriminatory or adverse action should be taken against any nurse or midwife professing a conscientious objection either in an application for, or during employment.

### **Clause 23 - Declarations for abortion facility**

In the interests of patient confidentiality and safety as well as the health and safety of workers, we support the provisions enabling the Minister, by written notice, to declare an area around an abortion facility to be a protected area.

### **Clause 24 - Prohibited behaviour in relation to abortion facility**

The QNU supports the provisions prohibiting behaviour that includes harassing, hindering, intimidating, interfering with, threatening or obstructing a person, including by capturing or attempting to capture images of the person, intended to stop the person from—

- (i) entering the facility; or
- (ii) having or performing an abortion in the facility; or

(b) an act that can be seen or heard by a person during the protected period for the facility, and intended to stop a person from—

- (i) entering the facility; or
- (ii) having or performing an abortion in the facility; or

(c) a protest, by any means, during the protected period for the facility relating to the performance of abortions in the facility.

### **Clause 25 - Publishing images of person entering or leaving abortion facility**

The QNU supports the provisions prohibiting a person from publishing images of another person entering or leaving, or trying to enter or leave, an abortion facility—

- (a) without the other person's consent; and
- (b) with the intention of stopping a person from having or performing an abortion.

These types of vigilante behaviour have no place in a health care setting or any other site.

## Conclusion

The QNU reiterates its position that the parliament must remove the offending provisions in the Code in order for subsequent changes to the *Health Act 1937* to be meaningful and relevant. We refer the Committee to our original submission (attached) for further information.