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Research Director
Health, Communities, Disability Services and
Domestic and Family Violence Prevention Committee
Via email: abortion.bill@parliament.qld.gov.au

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To the Research Director

Thank you for providing AMA Queensland with the opportunity to give feedback on the *Health (Abortion Law Reform) Amendment Bill 2016*.

AMA Queensland is the state's peak medical advocacy group, representing over 6,000 medical practitioners across Queensland and throughout all levels of the health system. We have previously advocated publicly on issues of public health, vaccination and medical regulation. Our members take a very strong interest in medico-legal issues given their importance the health system in Queensland.

Much of this new bill is similar to the *Abortion Law Reform (Woman's Right to Chose) Amendment Bill 2016*, which this committee recommended should not pass the Queensland Parliament. Our submission to the earlier bill is still largely relevant insofar as this new bill is concerned. AMA Queensland still believes Queensland's current laws which criminalise terminations of pregnancy are a barrier to a doctor's first duty – best patient care. Any amendment that provides legal certainty to Queensland doctors when it comes to performing terminations of pregnancy would be welcomed.

However the *Health (Abortion Law Reform) Amendment Bill 2016* does not amend the *Queensland Criminal Code Act*, so it will be necessary for the *Law Reform (Woman's Right to Chose) Amendment Bill 2016*, which AMA Queensland previously supported, to be passed alongside this bill if it is to be effective.

In regards to the *Health (Abortion Law Reform) Amendment Bill 2016*, AMA Queensland offers the following comments and recommendations.

s20: Only qualified health practitioner may perform abortion

As we stated in our submission to the first bill, AMA Queensland is of the view that where surgical termination of pregnancy is performed, the procedure and the associated anaesthesia should, as with any other medical intervention, be performed by appropriately trained doctors, in premises approved by a recognised health standards authority. This is consistent with the AMA position statement on *Ethical Issues in Reproductive Medicine*¹. We are therefore largely supportive of s20(1) and s20(2).

In regards to s20(3), AMA Queensland believes this provision is potentially problematic for a number of reasons.

Firstly, while we support the aim of ensuring a woman does not commit an offence by consenting to a termination of pregnancy, this part of the bill also says that a woman does not commit an offence by performing a termination on herself or assisting in the performance of one on herself. This is logically

¹ AMA Position Statement on *Ethical Issues in Reproductive Medicine*: [REDACTED]

inconsistent with s20(1) and (2) which clearly states only a doctor or a nurse operating under the supervision of a doctor may perform a termination.

AMA is particularly concerned this clause as written could lead to some women choosing to have unsafe terminations of pregnancy, which are sometimes colloquially referred to as “backyard abortions.”

AMA Queensland recognises the dual intent of this clause. Firstly, it aims to ensure that a woman who is undergoing a medical termination (either prescribed by a doctor or obtained from other sources) is not prosecuted for taking such medication. Secondly, it aims to ensure that women who have undergone an unsafe termination are not prosecuted for having done so. We commend the intent of the provision, as we acknowledge that even if terminations of pregnancy were to be decriminalised in Queensland as a result of the passage of these two bills, some particularly vulnerable women may still undergo an unsafe non-medical termination of pregnancy, and we would not wish to see them prosecuted for doing so. However we do not believe the bill should in any way encourage women to consent to an unsafe termination when a legal, safe alternative would exist after its ascent.

AMA Queensland would therefore recommend that s20(3) be amended in such a way as to –

- remove the inconsistency with s20(1) and s20(2)
- ensures a woman who has consented to an unsafe termination is not prosecuted
- provides sufficient discouragement to individuals from performing unsafe terminations on a woman even if the woman has consented to one

If the bill passes, we would strongly recommend that the Queensland Government commit to outreach and education measures specifically targeting women in social and cultural groups at risk of unsafe terminations of pregnancy. These measures should advise women in these groups that the law has changed, how and where they can access a safe termination of pregnancy and the potential health risks if they were to consent to an unsafe termination. This would help ensure that women seeking terminations of pregnancy are encouraged to do so in a safe facility by medically trained professionals.

A termination of pregnancy can be a traumatic and stressful life event for a woman and her family. Services that provide emotional and psychological support, both immediately and over the subsequent recovery should be made available to all women undergoing a termination of pregnancy.

AMA Queensland also recommends that counselling should be available for patients who are considering either a medical or surgical termination. Counselling education and training should also be made available to doctors and adequate resources should also be allocated to assist patients in making informed decisions around their care and treatment.

s21: Abortion on woman more than 24 weeks pregnant

AMA Queensland believes existing clinical practice and guidelines for termination of pregnancy² are effective and we would support the continuation of these, with appropriate amendments in consideration of the possible ascent of this bill. Section 3.2.1 of the guidelines indicates that two medical specialists, one of whom must be a specialist obstetrician, must consider the circumstances of each individual case. This is similar in scope to the provisions of the bill, and we are therefore supportive of this provision.

For the information of the committee, our members report that terminations of pregnancy greater than 24 weeks are not a frequent occurrence. AMA Queensland does not expect that this would change to a

² QLD Health (2013), *Therapeutic termination of pregnancy*, [REDACTED], Queensland Government. Accessed 08/09/16

significant degree if this bill were to be passed by the Parliament. However, it is important for the committee to understand there may be occasional extreme examples where the physical or mental health of the woman (and where the danger of the medical or surgical treatment is not out of proportion to the danger intended to be averted) may necessitate a termination of pregnancy.

There may also be severe congenital abnormalities which are either universally fatal or which would result in severe morbidity and very poor quality of life. In such examples it would be important to provide the option of termination consistent with the clinical guidelines already described.

s22: Duty to perform or assist in abortion

As we stated in our original submission, AMA Queensland respects the right of medical practitioners to hold differing views regarding the termination of pregnancies³. However conscientious objectors should not use their objection to impede access to treatments that are legal or which would impede the patient's access to care⁴. For this reason, AMA Queensland strongly recommends that if this legislation is passed by the Queensland Parliament, the Government should develop a public information campaign (through a brochure and websites) to inform doctors of their rights and also on their legal and ethical obligations under the new regime and to provide doctors with contact information to organisations such as Children by Choice. AMA Queensland would be happy to review this material and disseminate it to our members.

Division 3: Patient Protection

AMA Queensland is supportive of any measures which protect patients and staff from harm, intimidation or harassment. We support this section of the bill.

Conclusion

AMA Queensland would like to take this opportunity, as we did in our original submission, to repeat our support for other measures to reduce unwanted pregnancies, including enhancing access to affordable and effective contraception; promotion of respectful, equitable, non-violent relationships; and reducing binge-drinking among young people⁵. All Queenslanders should have access to confidential and accurate information, counselling and educational resources in relation to contraceptive options, pregnancy and reproductive health. This should be delivered in a coordinated manner and should take into account other factors such as a patient's socio-economic status as well as the needs of;

- Culturally and linguistically diverse communities
- people with a disability or impaired capacity
- Lesbian, Gay, Bi-sexual, Transgender and Intersex communities

Ideally this could be delivered as part of the whole-of-government public health plan advocated by AMA Queensland in Part One of our *Health Vision*⁶ and may form part of the work of the Queensland Health Promotion Commission when it is established.

³ AMA Position Statement on *Conscientious Objection* (2013): [REDACTED]

⁴ AMA Position Statement on *Ethical Issues in Reproductive Medicine* (2013): [REDACTED]

⁵ AMA Position Statement on *Sexual and Reproductive Health* (2014): [REDACTED]

⁶ AMA Queensland *Health Vision Part One*: [REDACTED]

In closing, AMA Queensland thanks you for providing us with the opportunity to provide the committee with a submission on the *Health (Abortion Law Reform) Amendment Bill 2016*. If you require further information or assistance in this matter, please contact Mr Leif Bremermann, Senior Policy Advisor, on 3872 2200.

Yours sincerely



Dr Chris Zappala
President
Australian Medical Association Queensland