

Submission to the Senate Community Affairs Legislation Committee

Inquiry into the Transparent Advertising and Notification of Pregnancy
Counselling Services Bill 2005

June 2006

Committee Secretary
Senate Community Affairs Committee
Department of the Senate
Parliament House
Canberra ACT 2600
Email: community.affairs.sen@aph.gov.au

Submission by : Dr Jo Dower

Introduction

In February 2006 the Federal Government announced that it would allocate \$51 million across 4 years for two pregnancy counselling measures – a new counselling telephone hotline and a Medicare rebate. The announcement of this funding has exacerbated concerns about the quality of existing pregnancy counselling services provided by some organisations in Australia.

In 1995, the National Health and Medical Research Council in their report *Services for the Termination of Pregnancy in Australia: A Review. Draft Consultation Document* referred to “false providers” as services that publicly claim to provide all-options, non-sectarian counselling, yet refuse to discuss abortion as a choice or refer callers to abortion clinics. Evidence suggests that 'counselling' services are being run in Australia that deliberately mislead women along these lines. Furthermore some of these services also misinform women about abortion, providing false and inaccurate information about the process and risks, as well as using manipulative counselling designed to coerce users of the service to make a particular decision.

Purpose of the current bill

The purpose of the *Transparent Advertising and Notification of Pregnancy Counselling Services Bill 2005* is to prohibit misleading and deceptive advertising and notification of pregnancy counselling services. It would compel pregnancy counselling organisations to be upfront about whether they do or do not refer for terminations.

Issues

Informed consent

An underlying principal of the provision of all health services is the notion of informed consent. Informed consent is a patient's right to be presented with sufficient information to allow them to make an informed decision regarding whether or not to consent to a treatment or procedure. Women facing an unintended pregnancy deserve no less. They are entitled to be provided with sufficient information about the nature of the service offered by the 'counselling' organisation to determine if the counselling offered will be professional, non-judgemental and non-biased, and include the provision of accurate information. Providing women with access to counselling is meaningless at best, and harmful, unless they are able to make informed decisions about whether they wish to participate in the counselling. This requires clear disclosure of the nature of the service being offered.

Protection against misleading and deceptive advertising

There is currently no regulation of pregnancy counselling. This means that any individual, group or organisation can identify as a 'pregnancy' counselling service. Organisations which charge for the services they provide, and are thus considered to be engaged in trade or commerce, are subject to the Trade Practices Act, which bans misleading and deceptive advertising. However many pregnancy counselling organisations are free and therefore lie outside the jurisdiction of the Trade Practices Act. This means that currently there are no protections for women using these services. Any person accessing a health care service should have the legal right to receive accurate

information about the service without being tricked or misled, regardless of whether the service incurs a charge.

Conclusion

Any person who seeks health-care services is entitled to make an informed choice about the nature of the service that they use. This legislation would make pregnancy counselling organisations which do not charge for their services subject to the same misleading advertising laws as organisations engaged in trade or commerce.

Ideally, all pregnancy counselling organisations would be non-directive and provide information about all three pregnancy options. At the very least these organisations must be transparent and upfront about declaring their stance in advertising and notification material. Refusing to pass the bill suggests that it is acceptable for services that do not charge a service to mislead users of that service. It is not. The Bill should be passed.