

Dissenting Report

By Senator Rachel Siewert, the Australian Greens

The Australian Greens support the Committee in welcoming the initiatives contained in the three pieces of legislation - the Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009, the Midwife Professional Indemnity (Commonwealth Contribution) Scheme Bill 2009 and the Midwife Professional Indemnity (Run-off Cover Support Payment) Bill 2009. The changes which will enable nurse practitioners and appropriately qualified midwives to request appropriate diagnostic imaging and pathology under Medicare, prescribe certain medicines under the Pharmaceutical Benefits Scheme (PBS) and to make referrals under the Medicare Benefits Scheme (MBS) will enhance the health care options for women and give greater access to safe, quality maternity care.

However, as noted by many submissions and witnesses to the inquiry, the practice scheme outlined in this bill and the related bills does not address the needs of many Australian women who make the choice to give birth outside the hospital system. The Greens are concerned that the option for a safe and accessible home birth, supported by an appropriately qualified and registered midwife, will be limited or removed altogether as a consequence of the introduction of these bills. While the majority committee report does acknowledge these issues, the Greens have significant concerns with its recommendation that the bills are passed without addressing them.

Furthermore, the Greens are concerned that the process to bring about such significant changes to midwifery practice in Australia has been undertaken in such a fragmented and uncoordinated manner. The lack of initial consultation with the key stakeholders and the failure to identify the overlap and contradictions between two major pieces of legislation at the outset of this process has made it unnecessarily complicated and chaotic.

The impact on homebirth and independent midwifery practice

The effect of the concurrent introduction of the Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009 and related bills and the National Registration for Health Practitioners Scheme (referred to as Bill B) will be that independent midwives will not be able to practice with registration as there is no available insurance product on the market to provide them with indemnity cover.

The Greens share the concern raised by a number of witnesses that, under the provisions of these bills, if registered midwives are unable to attend homebirth there is a very real potential that many women will still choose to birth at home – either unsupported or with the help of non-registered midwives. This will increase the risk of negative outcomes for mothers and newborns.

The Committee notes that there are hospital-based health services in Western Australia, New South Wales, South Australia and the Northern Territory which enable women to birth at home with the assistance of registered midwives, but that these services are limited and operate with strict exclusion criteria. Those women wishing to engage a private midwife for a homebirth outside these arrangements (or living outside of these states) may not be able to do so.

The choice of a safe and supported homebirth for women experiencing a low risk pregnancy is one that is highly valued by many women. The inquiry received many submissions highlighting why homebirth is so important to those who choose to deliver their child outside a hospital. These examples demonstrate that the women who make this choice are well-informed and well prepared

for their birth experience. One particular experience was provided by Dr Kathryn Dwan¹ and illustrates the level of preparation for homebirth and the role of the independent midwife in the event that the birthing mother has to deliver in hospital. Dr Dwan's experience emphasised the importance of the relationship that develops throughout the pregnancy between mother and midwife for those who choose to have an independent midwife. She spoke of the importance of the exchange of knowledge and information and the bond of trust that ensues.

Profession indemnity insurance for independent midwives

The prerequisites for registration contained in the National Registration and Accreditation Scheme include professional insurance indemnity. There has been no professional indemnity insurance product for independent midwives in Australia since 2001. This means that midwives in private practice cannot obtain insurance and currently practise uninsured. The legislation will therefore, in effect, make it illegal for independent midwives to provide midwifery services for homebirths.

The Committee report notes that the Minister and the Secretary are 'investigating' options to address this problem, but the majority report nonetheless recommends the passage of these bills with this problem unresolved. The Department of Health said, 'There are a number of streams of activity occurring. As I said earlier, we are acutely aware of the issues that are being raised and have been having discussions around those issues. The Minister has also been having discussions with stakeholders around those issues. We are actively considering those matters with a view to the minister coming to a view about how to address those things.'²

Outcomes if the bills proceed unamended

The passage of the Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009 and related bills and the National Registration and Accreditation Bill (Bill B) without amendments would have a series of major consequences.

Midwives will discontinue their registration

Some private practice midwives who are currently providing home birth care may simply decide not to continue their registration. They may continue to provide "midwifery" care using a different title ("birth worker" is currently used). This will in fact undermine the principles under which the registration legislation was established, that is, that health practitioners provide quality care and are registered which include keeping and enhancing their professional standards.

Increase in home-birthing without collaboration with doctors and hospitals

Under the proposed new legislative framework unregistered midwives continuing to provide homebirths will not be able to work with doctors or hospitals. This could potentially further endanger both the mother and child as unregistered midwives won't be able to arrange consultations and referral of the care of women in case of emergency.

¹ Thursday 6 August, Community Affairs Legislation Committee, Health Legislation Amendment and two other related Bills, CA 36-37

² Thursday 6 August, Community Affairs Legislation Committee, Health Legislation Amendment and two other related Bills, CA 66

Increase in 'free-birthing'

The inability of registered midwives to provide care for homebirths will not stop some women from making the decision to have their baby at home. It will merely force them to either birth with an unregistered care provider or they will choose to birth at home alone. Unattended and inappropriately supported births are likely to result in poor outcomes for mothers and their children

Exempting independent midwives who assist homebirths from the NRAS legislation

The Greens believe that the choice of having a low risk home birth should be available in Australia. We need to recognise that there are a significant number of women who birth at home.

We believe that independent midwives should be allowed an interim exemption for the requirements of the National Registration and Accreditation Scheme. This temporary exemption would allow time for the development of a long-term solution to the problems of registration and indemnity for midwives.

The Greens support the requirement that practitioners hold adequate indemnity insurance. The exemption of private practice midwives providing homebirth care from this requirement should only be considered as a temporary measure until access to professional indemnity insurance has been resolved.

Extension of the current legislation to include home birth practice

Research indicates that well integrated models of home birth care are safe. However home birth, predominantly in the private sector, has been marginalized by medical professional bodies and lobby groups. This marginalization has made it extremely difficult for individual private midwives to integrate their care into hospital based maternity services.

It is important that at this juncture of the reform process that consideration is given to ways of better integrating private home birth care into the delivery of maternity services rather than taking an approach that could potentially drive home birth underground.

The Greens consider the model of homebirth proposed by the Australian College of Midwives has particular merit. This model ensures quality practitioners, who are experienced, credentialed and completing continuing professional development, will use collaborative processes for consultation and referral according to nationally agreed guidelines to provide care for low risk women. Adopting this model would allow homebirth practice to be included in the current legislation.

Under this proposal:

- Indemnity insurance would only be extended to midwives who are Medicare eligible midwives. These midwives will have already undertaken a credentialing process and will be linked in to models of professional development, and will work in collaboration with medical practitioners.
- Evidence based guidelines should be used by midwives in making decisions regarding consultation and referral of the care of women. There is need for nationally endorsed guidelines to support midwifery care. These guidelines should be for all areas of maternity care, including antenatal care, minimum standards of care in labour, caesarean section, birth

after caesarean, and care of women with twins and breech babies. Such guidelines exist in other developed countries and inform practice. The Maternity Review recommended development of guidelines, and this should be progressed as a priority.

- The adoption of a policy or framework for private practice midwives providing homebirth care could be a way to progress the issue of indemnity, whilst addressing insurance risk concerns.

Recommendations

1. That the current legislation framework be extended to include homebirths.
2. That an interim exemption for independent midwives from any requirement to hold indemnity insurance be applied while alternative arrangements are developed ie. the status quo is maintained in the short term.
3. That the Government's indemnity scheme be extended to low risk homebirths.
4. That the Government and stakeholders work with the insurance industry to develop a product to cover homebirths. The Greens believe that a product with sufficient checks and balances will be possible to create that can ameliorate the concerns of those who advocate that any such product might be financially unsustainable.
5. That the birthing centre model be expanded. There are examples of independent midwives working within a broader umbrella of public sector health service delivery and therefore being covered by an institution's insurance. Perth has a Community Birthing centre and there are other examples in Illawarra, NSW, Adelaide, SA, the NT and a pilot programme in Victoria. While this is not homebirth and does not meet the needs of many women who seek that model of birthing, it is an option which should be more widely available.