

Re: Inquiry into Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009 and two related Bills

I write to express my grave concern about the above bills. I understand that these bills will enable Medicare funding, access to the Pharmaceutical Benefits Scheme (PBS) and professional indemnity premium support for midwives providing care for women to give birth in hospital. These Bills create a divide between midwives who choose to provide private midwifery services to women who seek the services of private midwifery care by denying the Medicare funding, PBS and professional indemnity premium support to midwives who are not employed in hospitals.

These Bills remove the right of private practice from midwives by denying those midwives the right to register and practice legally as they [midwives] stand ineligible to gain access to professional indemnity support a requirement for registration to practice. Therefore, the Bills are not only discriminatory against self employed midwives but discriminate against women and their basic human rights.

I would like to raise the following issues for your consideration:

1 Unfair discrimination

This group of Bills is unfairly discriminatory against self employed midwives providing homebirth services. The mandating of professional indemnity insurance (PII) makes no allowance the ongoing practice of self employed midwives, or the group of women who engage the service of private midwives.

'In line with the Maternity Services Review Report, Medicare benefits and PBS prescribing will not be approved for deliveries outside clinical settings, and the Commonwealth-supported professional indemnity cover will not respond to claims relating to homebirths.' (THE HON NICOLA ROXON MP 'Minister for Health and Ageing, MEDIA RELEASE, 24 June 2009)

2 Public Safety

The legislation is NOT in the public interest. Removing homebirth as a legal and valid choice for women is creating an environment where women will be forced to 'free' birth as opposed to birthing at home supported and cared for in their pregnancy and birth by a qualified and registered midwife.

The exclusion of homebirth is not based on any evidence or safety grounds. Research shows homebirth is a safe option for healthy pregnant women.

'... home birth does not increase the risks of perinatal mortality and severe perinatal morbidity among low-risk women, provided the maternity care system facilitates this choice through the availability of welltrained midwives and through a good transportation and referral system.' (de Jonge A, van der Goes B, Ravelli A, Amelink-Verburg M, Mol B, Nijhuis J, Bennebroek Gravenhorst J, Buitendijk S Perinatal mortality and morbidity in a nationwide cohort of 529 688 low-risk planned home and hospital births. BJOG 2009; DOI: 10.1111/j.1471-0528.2009.02175.x.)

3 Basic Human Rights

Section 116 of the constitution says that the parliament shall make no laws to restrict your religious belief, practice, and observance. By denying midwives the same insurance as the government provides for other maternity health professionals, and denying midwives the right to practice privately in any geographic location, the government would deny a right under section 116. Having a baby at home instead of a hospital is a natural law right covered under the freedom of religious belief provisions of the Australian constitution

'Birth is not an illness' (Fortaleza Declaration - Recommendations from the World Health Organization 1985) and therefore denying a woman the right of choice is an infringement of a basic human right of giving birth under natural physiological conditions, in the place of a woman's choosing when there are no indications requiring medical assistance.

4 Competition Policy and the Trade Practices Act

The legislation goes against Competition Policy and the Trade Practices Act as it is applied to provision of health services. The principles of Professor Fells ('The Trade Practices Act and the Health Sector' 1998) have not been applied to Government funding for basic maternity care, which is the practice domain for which midwives are registered. Consumers who choose to employ a midwife as their primary carer do so, in most cases at present, without any government support.

The current restrictions of the scope of practice of Australian midwives, and the further restriction that will be introduced if the above Bills are enacted as they currently stand, are regressive and anti-competitive. The Australian consumer has a right, under Competition Policy, to be free to choose the primary maternity care provider, either a midwife or a doctor, with consideration of the ability to each one to provide the service required by the individual woman and her child.

I support a system of equality and one where midwives and consumers will be accorded the same rights. I strongly recommend that the Senate Committee will ensure that Medicare funding, access to the Pharmaceutical Benefits Scheme (PBS) and professional indemnity premium support will be made available to ALL midwives enabling all midwives to engage in the full scope of midwifery practice, including homebirth.

Yours sincerely

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