

July 10, 2009

Ms Claire Moore
Chair
Senate Community Affairs Legislation Committee

By e-mail: community.affairs.sen@aph.gov.au

Dear Senator Moore,

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

I write to express my concern about the consequences of the above bills; all health consumers have the right to be treated equally, I am writing to seek your assurance that all related legislation includes midwives caring for women at home.

I understand that these bills will enable Medicare funding, access to the Pharmaceutical Benefits Scheme and professional indemnity premium support for registered midwives providing care for *women birthing in hospitals and birthing centers*. Medicare funding, PBS and indemnity access for midwifery is long overdue and I applaud the government for addressing these issues.

However, the intersection of this legislation with the national registration and accreditation of health professionals from July 2010 will prevent *registered* midwives from attending home births. I believe this to be an unintended consequence and ask that you take steps to include home birth within the Health Legislation Amendment (Midwives and Nurse Practitioners) and related Bills.

It is not acceptable to exclude home birth from funding and indemnity arrangements. By doing this Australia is totally out of step with nations such as the United Kingdom, Canada, The Netherlands and New Zealand. These nations support the rights of women to choose home birth and fund a registered midwife through their national health scheme. In New Zealand and the U.K women have a legislative right to choose home birth.

More importantly the amended legislation is unjust and, I believe, unethical. Women will not, nor should be forced into giving birth *only* in a hospital setting under a medical system. What the legislation, as it stands, will do is force women to either be unattended at home or to be attended by unregulated and unaccountable persons – as a woman and a midwife I find this to be totally unacceptable.

The whole point of national registration for health professionals is to insure the continuity of high standards of care across the country by professionals who are accountable to the public. By making it unlawful for a registered, thus accountable, midwife to attend a home birth takes away a woman's right to safe, quality care.

Midwifery insurance premiums should not be calculated under the same banner as their obstetric colleagues. Midwives, on the whole, provide low tech, non intrusive care to 'low risk women'. Midwives do not test, probe, monitor, augment and operate to hasten or avoid labour. Current research clearly identifies planned home birth with a trained health professional as a safe choice for women. I do not accept the proposition that it is too expensive to include home birth care in indemnity insurance support.

Two days ago a friend of mine gave birth via a planned (from conception) elective caesarean section. Her first child's birth some seven years ago caused her great psychological distress, she grappled with depression and her desire to have more children for five years before finding an obstetrician who would promise her an elective caesarean birth; providing her choice and control. She has now experienced two planned caesarean births in 18 months with the same care provider and is a very happy woman. – Society has supported her choices through taxpayer funds for surgery, hospital stays and by indemnifying her health carer.

Next Friday the wife of an employee of my husband will give birth by primary planned elective caesarean section for *no medical reason*. It is their first child; she doesn't like the idea of labour and vaginal birth so she found an obstetrician who would support her right to the birth she wants. As a society we will support her right too, through taxpayer funds for surgery, hospital stay, and possible special care nursery for her baby and by indemnifying her health carer.

Any day now I will give birth too. All going to plan my baby will be born at home, as my daughter was eight years ago. I will be attended by my family and two registered midwives. While currently society accepts my right to birth at home I am not supported by taxpayer funding nor are my midwives indemnified and yet I will save those same taxpayers thousands of dollars.

Women should be at the centre of her care and hold primary responsibility for decision making. It is not that the baby is unimportant or does not have needs, but no one has a greater interest in a healthy baby and a happy outcome than the pregnant woman herself. I support a system where all consumers are treated equally, with the same access to funding and the same insurance protection – I am asking you to ensure this is the case.

Yours sincerely

Shannon Morris

Homebirth in Australia: no insurance, no care

Fact Sheet

Major reforms are currently reshaping Australia's maternity services positively

- **The Federal Government's maternity reform package**, implementing recommendations of the Maternity Services Review. This promises to improve women's access to choice in maternity care, especially midwifery care, by reforms to Medicare, insurance for midwives, professional development initiatives, etc..
- **National registration for health practitioners**, due July 2010. This will bring uniformity across Australia, with single national registration for caregivers. Implementation will be via Bills introduced first to Qld Parliament and then to other States and Territories.

Midwives in private practice currently have no access to professional indemnity insurance

- Insurers withdrew cover in 2001-2002 during medical indemnity crisis.
- Private practice midwives currently practice uninsured (mainly providing homebirth).
- Lack of P.I. insurance prevents private midwifery practice in hospitals.

Federal midwifery reforms provide insurance for eligible midwives, but not for homebirth

- Federal Budget (12 May 2009) funds Medicare and insurance for midwives, along with other recommendations from DoHA Maternity Services Review.
- Bills introduced to Federal Parliament on 24 June enable:
 - Medicare payments starting November 2010 to "eligible midwives" (as defined in Regulations) working in private practice, and
 - subsidised insurance for eligible midwives in private practice starting July 2010, subject to conditions to be defined in Regulations. Commonwealth covers 80% of claims over \$100,000, 100% over \$2million.
- Federal Maternity Services Review (Feb 2009) advised against premature support for homebirth to avoid "*polarising the professions*" (p20) and because insurance "*premium costs would be very high*" (p20).
- Minister Roxon's Parliamentary and media statements on 24 June state that "*the Commonwealth-supported professional indemnity cover will not respond to claims relating to homebirths*". This restriction is not described in Bills, is expected to be set in the Regulations.

National registration to require professional indemnity insurance for all practitioners

- The exposure draft of the Health Practitioner Regulation National Law 2009 was released for public comment on 12 June 2009, by the Australian Health Workforce Ministerial Council.
- The draft bill requires that a registered health practitioner "*must not practise the health profession unless professional indemnity insurance arrangements are in force*".
- Non-compliance "*does not constitute an offence but may constitute behaviour for which disciplinary action may be taken*" (clauses 101, 125).

Together, these 2 processes will prevent midwifery care for birth at home

- Midwives wishing to remain in private practice will need to become accredited as “eligible midwives” by 1 July 2010 to access Government-supported insurance.
- Midwives not accredited as “eligible midwives” must either leave practice, register as “non-practicing”, or work only as an employee.
- From July 2010 birth care at home will be outside terms of insurance for “eligible midwives”, and thus potentially subject to disciplinary action by the midwifery professional regulator.

Loss of private midwifery for homebirth is a problem for safety and choice

- Homebirth is a reasonable option for women - shown by current evidence to be safe for low-risk births, available as a normal funded option in other developed countries, low cost.
- State services cannot be expected to provide broadly accessible homebirth services in the foreseeable future.
- Women will not have the choice to birth at home with a registered caregiver.
- Some women will birth at home with an unregistered carer or no carer. Bad outcomes can be expected.
- Responsibility is not currently being accepted by either level of Government.

Two possible solutions

- Provide professional indemnity insurance for homebirth care, with Commonwealth assistance. This is the only reasonable long-term outcome.
- Arrange temporary exemption under national regulation laws to allow homebirth care by eligible midwives until insurance can be sourced.

References:

Maternity Services Review: overview, submissions and report

- <http://www.health.gov.au/maternityservicesreview>

Federal maternity reform program bills from www.aph.gov.au

- Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009
- Midwife Professional Indemnity (Commonwealth Contribution) Scheme Bill 2009
- Midwife Professional Indemnity (Commonwealth Contribution) Scheme Bill 2009

Minister's media statement on maternity reform program

- <http://www.health.gov.au/internet/ministers/publishing.nsf/Content/mr-yr09-nr-nr087.htm>

National Registration and Accreditation Scheme

- <http://www.nhwt.gov.au/natreg.asp>

Evidence on the safety of homebirth

- A full list of references is available on request. An extensive list of research papers, oriented to the Australian situation, is documented in the paper below.
- L Newman (2008), 'Why planned attended homebirth should be more widely supported in Australia', Australian & New Zealand Journal of Obstetrics & Gynaecology, 48:450-453.