

8 July 2009

Committee Secretary  
Senate Standing Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

**Re: Health Legislation (Midwives and Nurse Practitioners) Bill 2009  
and two related Bills (Midwifery Professional Indemnity  
[Commonwealth Contribution] Scheme Bill 2009 and Midwifery  
Professional Indemnity [Run-off Cover Support Payment] Bill 2009)**

**Submission in relation to:  
Safety and Quality - Maternal & Infant Health Services in Australia  
Professional Indemnification Access - Midwives  
Medicare Benefits Schedule/Pharmaceutical Benefits Schedule Access -  
Midwives**

I write to provide comment in relation to the three Commonwealth Bills noted above and related matters. I wish to have it noted that the comments I make here are consistent with the formal submission dated 30/6/09 made to Australian Health Minister's Advisory Council re National Registration and Accreditation Implementation Project / Exposure Draft – Health Practitioner Regulation National Law 2009 and with comments provided to the concurrent Senate Inquiry into National Registration and Accreditation Scheme for Doctors and Other Health Workers.

This submission relates to the safety, quality, access and supply of a comprehensive range of maternal and infant health services in Australia. Specifically, it seeks to support and address the requirement that practitioners have suitable professional indemnity insurance during the period of their registration. The submission confines itself to some of the issues associated with and arising from the restriction of public access to private midwifery services, in particular, midwifery services provided for birth attendance in a woman's home. It is noted that the proposed Draft Health Practitioner Regulation National Law 2009 provides that registrants who are covered by their employers' insurance policy (ie: midwives employed in the public sector or midwives employed in private hospitals) will meet the compulsory professional indemnity requirements of the scheme (refer clauses 69, 73, 75, 80, 83, 101, 125). Midwives who are not employed in these sectors and who currently attend childbearing women in their homes are unable to access professional indemnification cover and therefore will be ineligible (and in contravention of provisions) for registration under the new national scheme if they provide midwifery services for birth in the family home.

The focus of this submission is to bring to the attention of the Committee the impact that the withdrawal of professional indemnification has had on private providers of midwifery services and the future consequence of prohibiting citizen access to safe, qualified midwifery services for birth attendance in the home environment.

As a registered, accredited midwife who has maintained varying levels of continuing private practice to women and their families in hospitals, homes and community settings in South Australia for the past sixteen years I have been personal and professional witness to the continuing erosion of women's and families' rights to make choices about their healthcare and to access quality midwifery service options. For the first seven years, when indemnity insurance was accessible I sought and was endorsed by SA Department of Health for clinical practice privileges and visiting access to state public hospitals. The withdrawal of market access to midwifery indemnification in 2001 effectively disabled and extinguished these hard won clinical privileging and visiting hospital access arrangements, denying women and their families' access to a range of midwifery service options. This set of circumstances further disabled 200 midwife practitioners across the country in practicing to the full scope of their professional discipline, depriving them of livelihood and creating significant hardship for their families. The situation has remained without remedy for eight years and now threatens to repeat itself in relation to legislative prohibition and punitive consequences for registered midwives who attend birth in a woman's home.

The Commonwealth initiative to introduce Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009 may enable greater numbers of women and their families to access government rebates for midwifery services via the Medicare Benefit Schedule for the purpose of pregnancy, hospitalized childbirth and postnatal care. Additionally, introduction of two related Bills (Midwifery Professional Indemnity [Commonwealth Contribution] Scheme Bill 2009 and Midwifery Professional Indemnity [Run-off Cover Support Payment] Bill 2009) is an overdue but commendable effort to restore indemnification access to midwifery professionals working under these arrangements to attend birthing women in hospitalized settings. The initiative however is limited in its confinement and application to institutionalized environments and affords no coverage to women or midwives who attend birth in the family home. This situation is significantly out of step with current evidence and with comparable western health systems practice in ensuring availability and citizen access to a full and comprehensive range of safe birthing service options with registered, indemnified midwives.

Given the obvious codependence between the new draft national health practitioner legislation, midwifery indemnification and citizens rights to a comprehensive range of safe birthing services I request the Committee seriously consider how the Australian government (federal and state), health ministers, health bureaucrats and regulators, will address the following outstanding legal, social and human rights issues in relation to the health, safety and wellbeing of childbearing women and their infants in Australia in relation to these three Commonwealth Bills:

1. The maintenance of cultural safety, quality and equity for women and their families choosing to birth their babies at home to access an appropriately qualified, registered health professional (midwife) in accordance with current international scientific evidence and parity with comparable western health systems;
2. The upholding of respect, rights and responsibilities associated with common law principles of informed consent and the bodily autonomy of childbearing women in Australia who choose to birth babies at home as supported by international conventions such as CEDAW, the United Nations International Declaration on Human Reproductive Rights and the International Initiative on Maternal Mortality and Human Rights (IIMMHR);
3. The prevention of health service monopolies, restrictive trade practices and anti-competitive principles currently operating in public and private sectors. These activities continue to impede the competitive market supply of a range of safe, quality childbirth services in accordance with fee-for-service principles stated by the current government in its National Maternity Review (2009), and for which there is identified and unmet demand in the Australian community;
4. The guarantee of justice, public interest and freedom associated with a liberal democracy in ensuring public and private access to the full scope of midwifery practice / services is met, in accordance with professional, legislated and ethically identified standards as articulated in the International Definition of the Midwife, which includes:

“A midwife may practice in any setting including the home, community, hospitals, clinics or health units.”

(ICM Adopted 19 July 2005: supersedes ICM The International Definition of the Midwife 1972 and its amendments of 1990)

These international standards and duty of care are currently enshrined in the Australian Nursing & Midwifery Council (ANMC) Australian National Midwifery Competency Standards (2006), ANMC National Midwifery Code of Ethics (2008) and the ANMC National Midwifery Code of Professional Conduct (2008), the latter two documents having been recently launched at Parliament House in 2008 by the Commonwealth Chief Nurse and Midwife at the invitation of the Federal Health Minister's Office.

Thank you for your consideration of a range of complex and challenging matters raised in this submission. Currently Australia is one of the safest countries in which to have a baby. Legislative initiatives that have the effect of removing citizen access to registered midwives in the home environment and excluding those providers from funding and indemnification access in the home environment (whether intentional or consequential) is both a serious public interest issue and an impediment to the future provision of safe

birthing options for all women in this country. These matters deserve proactive strategies in relation to changing health workforce arrangements that will benefit the whole community and improve quality and safety for all Australian families.

Yours Sincerely  
Roslyn Donnellan – Fernandez  
(South Australia)