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## **HEALTH LEGISLATION AMENDMENT (MIDWIVES AND NURSE PRACTITIONERS) BILL 2009 AND TWO RELATED BILLS:**

### **A RESPONSE FROM THE ROYAL AUSTRALIAN AND NEW ZEALAND COLLEGE OF OBSTETRICIANS AND GYNAECOLOGISTS**

#### **INTRODUCTION**

The Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG) are the body in Australia responsible for the selection, training, certification and recertification of the specialist obstetric and gynaecological workforce. The College also is responsible for training General Practitioner Obstetricians and thus RANZCOG members are responsible for supervising nearly all of the pregnancies and births in Australia. Australia enjoys a very safe maternity system, with Australian outcomes comparable with world's best practice.

#### **MATERNITY SERVICES REVIEW**

In September 2008 the Health Minister, Nicola Roxon, called for a review of maternity services. RANZCOG put a submission into that review which is available to read through the College's website: [www.ranzcog.edu.au](http://www.ranzcog.edu.au) and it outlines the College's proposals for possible improvements to maternity services, and it emphasizes the need for a collaborative based systems of maternity care. RANZCOG is opposed to the concept of independent Midwifery practice and is strongly of the view that the best outcomes in maternity care come from team-based inter-professional care.

#### **BUDGET CHANGES**

In the Federal Budget announced in May 2009, the Health Minister Nicola Roxon outlined changes to the provision of Maternity care. She flagged that 'eligible' Midwives would have access to the Medicare Benefits Schedule (MBS) and the Pharmaceutical Benefits Schedule (PBS). No agreed definition of an eligible midwife has been provided to date. Eligible midwives, to have access to MBS, have to work in collaborative care settings, though no approved and agreed models of collaborative care have yet been determined.

#### **OBSTETRIC INDEMNITY**

As part of the budgetary measures, midwives were to be granted professional indemnity for provision of services, within collaborative models of care. The level of that indemnity has yet to be determined and no indemnity provider has been identified, though RANZCOG understands that the Government is going to tender for the provision of this indemnity.

RANZCOG approves the need for collaborative care and its members are happy to work within collaborative care systems with accredited midwives.

Obstetricians already pay a high level of indemnity and RANZCOG acknowledges that this is underpinned by Government support through the Premium Support Scheme.

In the early part of this decade, there was a medical indemnity crisis with indemnity costs for Obstetricians rising to six figure sums and Specialist Obstetricians exiting the specialty, often citing high indemnity costs as the principal reason for cessation of practice.

There were also concerns in the Medical Defence organisation (MDO) industry, the groups of insurers who indemnify Obstetricians, with the collapse of United Medical Protection, at that time the largest insurer of doctors in Australia, with the viability of cover for obstetricians.

Following reforms to the Medical Defence Organisations, and with Government assistance, the indemnity crisis was averted, and a premium support scheme was introduced alongside tort law reform. These measures have made the practice of Obstetrics reasonably sustainable. Importantly, this has led to more certainty in the obstetric workforce, as some practitioners have returned to the obstetric workforce, and indemnity premiums have been affordable.

RANZCOG is of the opinion that a reasonably high premium for indemnity cover has led to improvements in practice, as doctors are careful not to practice in such a way that they will be exposed to litigation, and make efforts to avoid it.

RANZCOG has the following concerns with the proposed Health Legislation Amendment (Midwives and Nurse Practitioners Bill 2009).

If Midwives are indemnified, this could lead to increased costs of indemnity for Obstetricians as Obstetricians may be called in too late to manage an obstetric emergency and have to face the blame for a poor outcome, when an earlier referral may have averted a crisis.

If Midwives are indemnified the premium has to be realistic as RANZCOG is of the opinion that higher premiums do lead to better practice.

If RANZCOG Fellows are made to work in collaborative care systems that they consider unsafe, a number of Obstetricians will cease practice in Obstetrics, which could have significant workforce implications for Obstetricians and particularly General Practitioner Obstetricians in the country, who underpin the rural obstetric workforce.

At this late stage, there is as yet no defined, agreed models of collaborative care yet devised, and it is difficult for MDOs insuring Obstetricians to have clear methods of actuarial planning, as they do not yet know what they are insuring. This causes uncertainty in estimating future premiums.

There is a paucity of detail on what will happen if a midwife is the subject of frequent claims through her indemnity insurance. There is a process in place for doctors to whom this happens, but there is no detail on Midwife “frequent flyers”. There is also no detail on what will happen to a midwife who works outside an agreed collaborative care framework, or what will happen if a midwife does not adhere to agreed collaborative policies, and oversees a bad outcome for a mother or baby.

## **SUMMARY**

The Maternity Services reforms will change the delivery of maternity care in Australia. Australia already has a safe system of Maternity care and RANZCOG Fellows have been integral in contributing to that. These pieces of legislation need refining to:

- Define an ‘eligible’ midwife
- Provide more details of midwife indemnity scheme.
- Provide details of collaborative care models
- Provide certainty that there will be no increase in indemnity for obstetricians in the event of midwife indemnity

The proposed starting date for these reforms is 1 November 2010 and this may be optimistic, in RANZCOG’s opinion.