Minority Report

By Senator Rachel Siewert, the Australian Greens

In my Dissenting Report, dated August 17th, 2009 I welcomed 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 - however I was and remain concerned that these Bills do not address the needs of many Australian women who make the choice to give birth outside the hospital system. I am 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.

Collaborative Arrangements

The Government has introduced an amendment to their legislation requiring midwives to have collaborative arrangements in place with a medical practitioner in order to register. I acknowledge and support the Minister's intention that Medicare funded midwives should work collaboratively with medical and other health professionals as needed in the care of women and their babies. I do not however, agree that it is necessary to legislate for collaborative arrangements in order to achieve this goal. Collaboration with medical and other health professionals is already encoded in the regulatory framework within which midwives work in Australia. Disciplinary action may be taken by regulatory boards if midwives are found to practise in a non-collaborative manner.

I agree with the Australian College of Midwives that midwifery is a profession committed to the provision of collaborative care. I believe it is essential. I agree that, 'There is no argument that women choosing the care of a private MBS funded midwife must have ready access to appropriate medical care if and when the need arises for themselves or their baby'[1]. I agree with the Australian College of Midwives that the issue is how collaboration is ensured.

I believe the inclusion of collaborative arrangements in legislation may undermine how midwives work collaboratively with medical and other health professionals. I agree with the Australian College of Midwives that a midwife should be able to demonstrate their adherence to safe, collaborative practice through the use of formalised maternity care notes for each woman for whom they provide care, which can be audited by Medicare Australia or the Nursing and Midwifery Board of Australia as appropriate.

I agree with the Australian Nursing Federation that the consequence of the government's amendments to the bills will mean that a medical practitioner could have veto over the ability of a midwife to practice.

I agree with the Australian Nursing and Midwifery Council who have argued that collaborative practice between midwives, nurse practitioners and other health professionals are already legislated through the professional framework developed by the Australian Nursing and Midwifery Council.

The Department of Health and Ageing commented during the inquiry that a consensus position on collaborative arrangements had not yet quite been reached in the various advisory groups associated with this legislation. I am concerned that legislation should be presented before Parliament before advisory groups have been able to complete their work and believe this has

[1] Australian College of Midwives, *Submission* 30, p. 4.

contributed to the confusion and concern felt by many stakeholders not least the patients themselves.

Conclusion

I support the Minister's intention that Medicare funded midwives should work collaboratively with medical and other health professionals as needed in the care of women and their babies. I don't agree that it is necessary to legislate for collaborative arrangements in order to achieve this goal. In fact I believe it will have a negative impact. Collaboration with medical and other health professionals is already encoded in the regulatory framework within which midwives work in Australia. Disciplinary action may be taken by regulatory boards if midwives are found to practise in a non-collaborative manner.

Consultation and referral (collaborative practice) appropriate to midwives' scope of practice is an area which is already regulated. Midwives currently have competency standards which directly refer to consultation and referral and collaborative practice, and clear practice guidelines on when to consult or refer. The Government's amendment changes the relationship giving one medical profession, the doctors, control over the ability of another, the midwives, to practice. This is not collaboration.

Many women whose babies are due after 1 July 2010, when these requirements come into force, have already commenced care with a private practice midwife. It will remain unclear for some time under what conditions they can receive birth care from their midwives, if at all. If these amendments proceed, these women's birth care will also be determined by their midwives' ability to establish the required collaborative arrangement between midwives and medical practitioners.

Recommendation

That the Health Legislation Amendment (Midwives and Nurse Practitioners) Bill is amended by replacing reference to 'collaborative arrangements' with a requirement that eligible midwives demonstrate collaborative practice and that in the definition of a participating midwife, midwives would be required to demonstrate 'collaborative practice' by using standardised clinical documentation for planning and provision of care. This would record specific indications of collaborative practice, in particular consultation and referral as required, with the consent of the women for whom care is provided.

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