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11th December 2009

To: Senate Standing Committee on Community Affairs
community.affairs.sen@aph.gov.au

RE: INQUIRY INTO HEALTH LEGISLATION AMENDMENT (MIDWIVES AND NURSE PRACTITIONERS) BILL 2009 AND TWO RELATED BILLS.

(1) The relevant draft legislation and amendments for inquiry and report by 1 February 2010:

Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009
Midwife Professional Indemnity (Run-off Cover Support Payment) Bill 2009
Midwife Professional Indemnity (Commonwealth Contribution) Scheme Bill 2009, be again referred to the Community Affairs Legislation Committee, together with the Government amendments to the bills circulated on 28 October 2009.

(2) Committee considerations (terms of reference):

(a) whether the consequences of the Government's amendments for professional regulation of midwifery will give doctors medical veto over midwives' ability to renew their license to practice;

The proposed Government amendments for legislated professional regulation of private midwifery are unworkable. There is no incentive for doctors to enter into or maintain a collaborative arrangement with private midwives as it would involve further responsibility, liability, commitment and availability, as well as oversight of the private midwife's practice.

If a midwife that otherwise qualifies to practice as a private midwife is unable to find a doctor that will enter into a collaborative arrangement, that midwife will not have access to insurance and will not be able to obtain registration to practice as a private midwife. This places ultimate control over who enters the private midwifery profession firmly in the hands of doctors.

There will be very few, if any, doctors that would be prepared to go out of their way to support a midwife in continuing/establishing a private practice. This is particularly true for private home birth midwives. We would not expect to see any doctors entering collaborative arrangements with private midwives experienced in providing

home birth services, particularly considering that the AMA and RANZCOG do not support home birth and its members are likely to follow that line.

Regardless of place of birth, doctors will have ultimate control over otherwise qualified midwives' ability to renew / apply for registration so that they can practice as a private midwife.

(b) whether the Government amendments' influence on the health care market will be anti-competitive;

The Government amendments place final decision making in relation to who will gain registration to practice as a private midwife firmly in the hand of doctors.

There is a longstanding history in relation to the doctor / midwife relationship. The approach to birth that these professions take is generally very different and is explained very well in 'The Win-Win Solution: Constructing Collaboration' by Dr Karen Lane, 2005. The ideas in the following three paragraphs are taken from Dr Lane's paper.

Doctors tend to approach birth using an objectivist model which treats the body like a complex machine and uses a series of interventionist techniques to repair faults that may develop in the machine. Any departure from the 'norm' will be treated as a risk and intervention will follow.

Private midwives tend to use a productivity approach, where the skills demanded of the carer include close observation, listening, empathy and respect for the knowledge of the woman about herself and her baby. The approach is to develop an intimate relationship with the women to understand the idiosyncratic responses throughout the labour and birth that *are typical for her* and recognising that bodily performance will undoubtedly be varied and not necessarily indicative of pathology.

As a result of their training and approach to birth, doctors generally feel a total responsibility for outcomes. Through the fully informed decision making and consent process offered by private midwives, women and their families are able to take control of and responsibility for the decisions they make.

These differences in approach to birth offer women the choice in two completely different models of maternity care. It is vitally important that women not only continue to have access to the private midwifery model of care, but that this service is expanded to meet increasing demand.

It is inappropriate and anti-competitive to allow an alternate profession that is in direct competition for the same cliental, the right to determine who will gain registration as a private midwife.

The Government amendments will give doctors the opportunity to reduce or stamp out a competing model of maternity care. Private midwifery as we know it (where the midwife runs their own practice) will be wiped out.

The Australian Medical Association president, Dr Andrew Pesce, cites his greatest achievement so far (as president) has been to successfully lobby the Federal Government to make amendments to legislation, ensuring that midwives would be denied Medicare payments unless they could prove they were working collaboratively with doctors. (*The Age, November 29, 2009*)

These amendments affect ALL women that may wish to access the services of a truly privately practicing midwife, regardless of the place in which they choose to have their baby. As maternity service consumers, we find the prospect of doctors being handed legislated control over the private midwifery profession extremely disturbing.

The amendments contradict the international definition of a midwife and place Australia totally out of step with international standards.

(c) whether the Government's amendments will create difficulties in delivering intended access and choice for Australian women;

As a result of the amendments, the proposed legislation will fail to deliver the Government's commitment to greater access and choice of maternity services.

The three Bills are designed to help facilitate the private midwives package (access to insurance, MBS and PBS). If the amendments are passed, the number of private practice midwives will be subject to a doctor's willingness to enter into collaborative arrangements. This will inevitably reduce the number of otherwise qualified midwives that will be able to practice as a private midwife, thereby curtailing accessibility for consumers.

Consumers may no longer be able to access a truly privately practicing midwife **at all** because any midwife that are able to secure a collaborative arrangement with a doctor will be dependent on the doctor's ongoing approval of their practice and satisfaction with the arrangement. The ability to choose and access a truly private model of midwifery care will be lost.

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(d) why the Government amendments require 'collaborative arrangements' that do not specifically include maternity service providers including hospitals;

A legislated requirement for collaboration (in any form) will remove the focus from the provision of services to consumers and instead places it on the relationship between doctors and midwives. This is not beneficial to consumers or the professional relationship of doctors and midwives.

There are a number of mechanisms that already exist to ensure that private practice midwives collaborate where appropriate. That is, industry regulation and existing professional guidance, including the '*National Midwifery Guidelines for Consultation and Referral*' (Second Edition, 2008. Australian College of Midwives Inc.), and Midwifery Practice Review with regular credentialing and assessment.

The legislated requirement for collaboration is unnecessary, inappropriate and detrimental to the provision of maternity services, and inter-professional respect.

(e) whether the Government's amendments will have a negative impact on safety and continuity of care for Australian mothers; and

Australia's current caesarean rate is **more than 30%** of all births. It is estimated that up to **90%** of women, if appropriately supported, are able to give birth naturally (the World Health Organisation). Private midwives are **the specialists** in facilitating natural birth. If greater access to private midwifery is granted there is the potential to significantly reduce Australia's caesarean rate and bring it in line with the World Health Organisation recommendation of a maximum caesarean rate of 10-15%.

Should the proposed amendments go ahead and doctors are given medical veto over the private midwifery profession, we believe that Australia's caesarean rate will continue to climb and the psycho-social wellbeing of Australian women and their families will wear the consequences.

With regard to continuity of care, it is inappropriate for women to have their case reviewed by someone outside the model of maternity care that they have chosen, ie) someone from another profession.

If private midwifery case review is to be undertaken, we believe that it should be left to the private midwife and the woman to collaboratively determine (a) that a

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review is necessary; and (b) the most appropriate health professional to conduct the review. There are existing mechanisms for ongoing assessment, guidance and review of the qualifications, skills and competencies of the midwifery profession. The '*National Midwifery Guidelines for Consultation and Referral*' (Second Edition, 2008. Australian College of Midwives Inc.), provides a clear course of action for identifying when further consultation and case review is required, and the most appropriate health professional to refer to in that instance.

The safety and continuity of care of Australian women can only be realised through an intimate relationship with the chosen maternity care provider, where truly informed decision making and consent are reached. Imposing an unnecessary and inappropriate third party on this relationship completely undermines the continuity of care and compromises the safety of the woman and her baby.

(f) any other related matter.

The proposed amendments to the Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009 and two related Bills oppose the original intent of the Maternity Services Review, which is to provide greater access and choice for Australian women.

There are existing mechanisms for ensuring inter-professional collaboration occurs where necessary. Legislating the requirement for collaboration arrangements (in any form) as a prerequisite to obtaining insurance, and therefore registration to practice, sets a dangerous precedent and is not in the best interest of Australian women and their families, or inter-professional respect.

We sincerely hope that the Senate will consider the autonomy, safety and benefits that Australian families will gain from a senate recommendation that the amendments **not** be passed.

Tanya Bingham
On behalf of the Homebirth Network of SA Inc.