

**Submission
No 23**

INQUIRY INTO REPRODUCTIVE HEALTH CARE REFORM BILL 2019

Organisation: New South Wales Nurses and Midwives' Association

Date Received: 13 August 2019



Submission to the NSW Legislative Council's Standing Committee on Social Issues' Inquiry into the Reproductive Health Care Reform Bill 2019

13 AUGUST 2019



NSW NURSES AND MIDWIVES' ASSOCIATION
AUSTRALIAN NURSING AND MIDWIFERY FEDERATION NSW BRANCH

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Recommendations

1. The NSW Nurses and Midwives' Association recommends that the NSW Legislative Council pass the Reproductive Health Care Reform Bill 2019 in the form passed by the NSW Legislative Assembly on 8 August 2019.

Foreword

The New South Wales Nurses and Midwives' Association (NSWNMA) is the registered union for all nurses and midwives in New South Wales. The membership of the NSWNMA comprises all those who perform nursing and midwifery work. This includes: registered nurses; enrolled nurses and midwives at all levels including management and education, and assistants in nursing and midwifery.

The NSWNMA has approximately 66 000 members and is affiliated to Unions NSW and the Australian Council of Trade Unions (ACTU). Eligible members of the NSWNMA are also deemed to be members of the New South Wales Branch of the Australian Nursing and Midwifery Federation.

NSWNMA strives to be innovative in our advocacy to promote a world class, well-funded, integrated health system by being a professional advocate for the health system and our members. We are committed to improving standards of patient care and the quality of services of all health and aged care services whilst protecting and advancing the interests of nurses and midwives and their professions.

We welcome the opportunity to provide a submission to this Inquiry into the Reproductive Health Care Reform Bill 2019.

This response is authorised by the elected officers of the New South Wales Nurses and Midwives' Association

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Introduction

The NSW Nurses and Midwives' Association (NSWNMA) welcomes the opportunity to provide this submission to the NSW Legislative Council's Standing Committee on Social Issues' inquiry into the Reproductive Health Care Reform Bill 2019.

Abortion has remained in the *Crimes Act 1900* (NSW) for 119 years, causing uncertainty for women seeking abortion services as well as health practitioners. The NSWNMA is committed to being a significant and professional voice in the health policy debate. As advocates for patient safety as well as representing nurses and midwives in NSW, we support the decriminalisation of abortion in NSW and recommend the NSW Legislative Council support the Reproductive Health Care Reform Bill 2019 in the form passed by the NSW Legislative Assembly.

The NSWNMA represents nurses and midwives in NSW. Nurses and midwives are registered health practitioners who may assist in the performance of an abortion¹ The Reproductive Health Care Reform Bill 2019, if passed, will provide clarity for health practitioners providing care for women choosing to have an abortion.

Position of the NSWNMA

The NSWNMA supports the motion, passed by the NSW Legislative Assembly on 10 August 2017, that this House *“supports the right of women to make the choice that is right for them, which includes respecting their rights to access safe, legal abortion”*².

Currently, health practitioners including nurses and midwives, are required to rely on common law precedents³ to determine whether an abortion is lawful and therefore is able to be performed without risk of criminal prosecution. This causes a great deal of uncertainty for women seeking health services and for health practitioners. It is imperative that the NSW Parliament reform the law relating to abortion.

Where the provision of a particular health service by health practitioners is entirely reliant on common law, it is the responsibility of the Government to ensure that legislation is enacted to provide clear and unambiguous guidance as to what is authorised. Health practitioners should not have to interpret judgments from relevant cases in order to make an assessment as whether a particular treatment or service is 'lawful'. The current state of the law poses an unacceptable risk to nurses and midwives who work in reproductive health and maternity services.

¹ Reproductive Health Care Reform Bill 2019 (NSW), s8

² NSW Legislative Assembly Hansard, Thursday 10 August 2017, Page 28

³ *R v Wald* (1971) 3 DCR (NSW) 25; *CES & Anor v Superclinics (Australia) Pty Ltd & Ors* [1995] NSWSC 103

Nurses and midwives have a professional obligation to use their expertise and influence to protect and advance the health and wellbeing of individuals as well as communities and populations.⁴ It is on this basis that the NSWNMA advocates for the protection of the health and wellbeing of individuals who are accessing reproductive health services.

Nurses and midwives are required to provide person/woman-centred care. The Nursing and Midwifery Board of Australia provides the following description of person-centred practice:

“Person-centred practice is collaborative and respectful partnership built on mutual trust and understanding through good communication. Each person is treated as an individual with the aim of respecting people’s ownership of their health information, rights and preferences while protecting their dignity and empowering choice.”⁵

In order for nurses and midwives to practice in a manner that is consistent with their accepted professional standards they must respect women’s rights and preferences and empower them to have choice in their healthcare decision-making. The NSWNMA advocates for legislative reform on the basis that, if passed, this Bill provides clarity and protection for nurses and midwives and will enable them to wholly engage in person/woman-centred care where the person in their care is seeking an abortion.

The NSWNMA is one of the 73 supporter organisations of the NSW Pro-Choice Alliance. The NSW Pro-choice Alliance recommends⁶ the repeal of sections 82-84 of the *NSW Crimes Act 1900* and the implementation of legislation similar to Queensland’s *Termination of Pregnancy Act 2018* and Victoria’s *Abortion Law Reform Act 2008*.

The NSW Pro-Choice Alliance seeks changes to the law that:

- Regulate abortion as a health procedure;
- Ensure consistency with contemporary clinical practice, and public health standards;
- Empower women with the right to choose what happens to their own bodies;
- Guarantee equal access to safe, high quality healthcare, and;
- Align with international human rights obligations.

Recommendation

The NSWNMA recommends that the NSW Legislative Council support the Reproductive Health Care Reform Bill 2019 in the form passed by the NSW Legislative Assembly on 8 August 2019.

⁴ *Code of conduct for nurses*, Nursing and Midwifery Board of Australia, 2018, Melbourne, Australia; *Code of Conduct for Midwives*, Nursing and Midwifery Board of Australia, 2018, Melbourne, Australia

⁵ *Registered nurse standards for practice*, Nursing and Midwifery Board of Australia, 2018

⁶ NSW Pro-Choice Alliance 2019, Our Goal, viewed 13 August 2019

https://www.nswprochoicealliance.org.au/our_goal

Conclusion

We thank the Legislative Council for the opportunity to provide this submission to the Standing Committee on Social Issues' inquiry into the Reproductive Health Care Reform Bill 2019. The NSWNMA supports the decriminalisation of abortion in NSW and is of the view that abortion must be removed from the *Crimes Act 1900* (NSW) and regulated as a health care procedure. Women should have autonomy over their bodies and be empowered and respected in their decision-making; and health practitioners should have a legislative framework which provides clarity and certainty. The NSWNMA supports the Reproductive Health care Reform Bill 2019 and urges members of the Legislative Council to support the Bill.



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