

INQUIRY INTO REPRODUCTIVE HEALTH CARE REFORM BILL 2019

Organisation: Royal Australian and New Zealand College of Obstetricians and
Gynaecologists (RANZCOG)

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Submission

Reproductive Health Care Reform Bill 2019

The peak body for obstetrics and gynaecology and women's health, RANZCOG, welcomes the passage of the *Reproductive Health Care Reform Bill 2019* through the NSW Legislative Assembly and urges the Legislative Council to support the Bill without further amendment.

It is RANZCOG's position that abortion should be regulated as a health procedure and not by the criminal law. Law reform to remove abortion from the criminal law in NSW is long overdue. RANZCOG applauds the decision by the Legislative Assembly to repeal the abortion offences in the *Crimes Act 1900 (NSW)* which are radically out of step with contemporary clinical practice.

RANZCOG considers that access to lawful abortion should be on the basis of health care need and should not be limited by age, socioeconomic disadvantage, practitioner-preference or geographic isolation. The decision as to whether to have an abortion, or to continue a pregnancy, is multifactorial and is between a woman and her medical care provider. Equitable access to services should be overseen and supported by health departments in each jurisdiction in the same way it is for other health services.

In relation to the specific provisions of the *Reproductive Health Care Reform Bill 2019*, RANZCOG makes the following comments:

Termination by medical practitioners at not more than 22 weeks

It is RANZCOG's position that clause 5 of the Bill appropriately reflects the importance of patient autonomy, respecting the right of the woman to make her own decision in consultation with her medical practitioner.

RANZCOG notes the amendment to clause 5 passed in the Legislative Assembly which makes specific reference to the need for informed consent in accordance with any applicable guidelines. In RANZCOG's view, this amendment was unnecessary because the requirement to obtain informed consent is inherent in every medical encounter and is a fundamental element of the doctor/patient relationship. However, as long as this requirement is not implemented in a way that creates a barrier to accessing abortion, it is consistent with current clinical practice.

Termination by medical practitioner after 22 weeks

RANZCOG recognises the complexities associated with abortions after 22 weeks gestation, and supports a process by which late term abortions can be lawfully performed, where appropriate. In the case of abortion after 22 weeks gestation, RANZCOG agrees that involvement of at least two doctors is reasonable, and notes that in public hospital settings, a multidisciplinary team would be usual practice. This may include, but not be limited to, fetomaternal medicine specialists, neonatologists, geneticists, social workers and mental health specialists.

Abortions after 22 weeks are only ever performed when there is a compelling clinical need, and follow extensive consultation between the woman and her treating health practitioners. The incidence of post-22 week terminations is low and there is no evidence, and no reason to believe, that removing abortion from the *Crimes Act* will change current clinical practice, nor the number of abortions that will be performed. Abortions after 22 weeks in NSW are currently performed in accordance with clear professional and ethical standards, with reference to the NSW Health framework.

The 22 week threshold is appropriate because many fetal abnormalities may not be identifiable until the 18-20 week anatomical ultrasound is performed and there are some significant fetal conditions that only become apparent later in pregnancy. If an anomaly is discovered, it is crucial that the woman is allowed sufficient time to be adequately informed prior to a decision regarding abortion. This may take some days.

The requirement for post-22 week abortions to be performed in public hospitals or approved health facilities is consistent with current practice which already ensures appropriate oversight of these procedures.

It is therefore RANZCOG's view that clause 6 of the Bill is appropriate. It is in line with RANZCOG's position on late termination of pregnancy (see attached statement Late termination of pregnancy (C-Gyn 17a) and current standards of good clinical practice.

https://www1.health.nsw.gov.au/pds/ActivePDSDocuments/PD2014_022.pdf

RANZCOG Statement C-Gyn 17 [https://ranzcof.edu.au/RANZCOG_SITE/media/RANZCOG-MEDIA/Women%27s%20Health/Statement%20and%20guidelines/Clinical%20-%20Gynaecology/Abortion-\(C-Gyn-17\)Review-March-2019.pdf?ext=.pdf](https://ranzcof.edu.au/RANZCOG_SITE/media/RANZCOG-MEDIA/Women%27s%20Health/Statement%20and%20guidelines/Clinical%20-%20Gynaecology/Abortion-(C-Gyn-17)Review-March-2019.pdf?ext=.pdf)

RANZCOG Statement C-Gyn 17a [https://ranzcof.edu.au/RANZCOG_SITE/media/RANZCOG-MEDIA/Women%27s%20Health/Statement%20and%20guidelines/Clinical%20-%20Gynaecology/Late-Termination-of-Pregnancy-\(C-Gyn-17a\)-New-May-2016.pdf?ext=.pdf](https://ranzcof.edu.au/RANZCOG_SITE/media/RANZCOG-MEDIA/Women%27s%20Health/Statement%20and%20guidelines/Clinical%20-%20Gynaecology/Late-Termination-of-Pregnancy-(C-Gyn-17a)-New-May-2016.pdf?ext=.pdf)

Requirement for information about counselling

Good clinical practice requires every medical practitioner to consider the patient's health care needs and suggest additional treatments, such as counselling, where clinically appropriate. RANZCOG therefore sees no need for any specific legislative requirement for medical practitioners to consider counselling for women requesting abortion. However, since clause 7 of the Bill reflects current practice in this regard, RANZCOG does not oppose it in its current form, but recommends that the implementation of clause 7 be closely monitored to ensure that it does not make it more difficult for women to access the health care they need.

Registered health practitioner with conscientious objection

RANZCOG respects the personal position of all its members, and recognises the right to conscientious objection in relation to abortion. However, the College emphasises that health practitioners owe a duty of care and must transfer care of the patient to other health practitioners or health services where a woman is able to receive the health care she needs.

It is RANZCOG's view that clause 9 of the Bill represents an appropriate balance between respecting the rights of an individual health practitioner with a conscientious objection and ensuring that the woman is able to receive the health care she needs.

Review in relation to gender selection

RANZCOG does not support termination of pregnancy on the basis of fetal gender, but emphasises the importance of patient autonomy and insists that health matters should be between a woman and her doctor.

So far as RANZCOG is aware, there is no evidence that abortion for reasons of gender selection is currently practised in NSW. Current medical practice and ethical frameworks would make it highly unlikely that doctors would agree to perform a termination solely on the basis of gender. Accordingly, RANZCOG does not support specific legal regulation of this practice at this time.

RANZCOG does, however, support the proposal in clause 14 of the Bill for a review of this issue to be conducted by the Ministry of Health, and would reconsider its position should this review provide evidence that the practice is of significant concern.

Conclusion

While RANZCOG accepts the Bill in its current form, we wish to place on record our concern that the proposed amendments call into question the standards and ethics of the medical profession, seeking to regulate and control practice. The risk is to undermine confidence in the profession. The public have every reason to believe that doctors currently deliver all aspects of healthcare in a compassionate, reasoned and ethical manner. This is an expectation of all RANZCOG members. This is a matter of trust. It applies to every interaction between a doctor and their patient.

On balance, RANZCOG considers the *Reproductive Health Care Reform Bill 2019* represents an appropriate approach to the regulation of abortion as a health care procedure. It will ensure that women are able to receive the care that they need in a timely, professional, compassionate and respectful manner. RANZCOG encourages the NSW Parliament to pass the Bill in its current form without further delay.

Yours sincerely,

Dr Vijay Roach
President