Submission No 44

INQUIRY INTO REPRODUCTIVE HEALTH CARE REFORM BILL 2019

Organisation: NSW Council of Social Service (NCOSS)

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Hon Shayne Mallard MLC
Chair, Standing Committee on Social Issues
Legislative Council
Parliament of New South Wales
socialissues@parliament.nsw.gov.au

Dear Chair,

Re: Reproductive Health Care Reform Bill 2019

As the peak body for health and community services in NSW, the NSW Council of Social Service (NCOSS) represents hundreds of community services and many thousands of workers from these services across the state. Our membership is diverse – from peak bodies, statewide and frontline services, to regional, rural and remote services. We represent diverse communities, our state's most vulnerable and people experiencing and at risk of poverty and disadvantage. Each year we visit regions across NSW and hear directly from over 500 representatives of community services, engage with community leaders on the ground and hear directly from around 400 people with lived experience of poverty and disadvantage.

We welcome the opportunity to make a submission to the inquiry into the Reproductive Health Care Reform Bill 2019 (the Bill).

Support for the Bill
NCOSS supports the Bill in its current form and opposes any further amendments, which could limit women's safe, adequate and timely access to reproductive healthcare.

The Bill has been drafted after careful consideration and takes into account expertise from key medical, legal and human and women's rights organisations. The Bill has broad support across these sectors, including the Australian Medical Association (NSW), Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG), the NSW Bar Association and the Law Society of NSW. As a member of the NSW Pro-Choice Alliance, NCOSS has joined with over 70 human rights and community sector organisations in supporting this vital Bill.

This legislation is long overdue and will bring NSW in line with other Australian jurisdictions. The Bill reflects that abortion is an issue of healthcare, not criminality. It is also a significant step towards meeting Australia's obligations under our commitment to the *Commission on the Status of Women Agreed Conclusions* (CSW), in particular addressing discrepancies for rural women's access to reproductive healthcare and to:

> *(uu) Ensure universal access to sexual and reproductive health and reproductive rights … and recognizing that the human rights of women include their right to have control over and decide freely and responsibly on all matters related to their*

sexuality, including sexual and reproductive health.[1]

Women's sexual and reproductive health rights have formed a key priority for NCOSS in submissions and delegations to CSW.

Impact on women experiencing poverty and disadvantage
This Bill is vital for women across NSW to ensure respect, dignity and safe and compassionate reproductive healthcare. In particular it is important for women who experience multiple and intersecting forms of disadvantage – vulnerable women, women living in or at risk of poverty, regional, rural and remote women, women experiencing domestic and family violence, and women from Culturally and Linguistically Diverse and Aboriginal and Torres Strait Islander communities.

While abortion remains in the Crimes Act, women not only face the threat of criminal charges and continued stigmatisation; there are also increased barriers to access such as increased cost and limited accessibility of services. These barriers are particularly pronounced, and can become insurmountable, for women living in regional areas, women at risk of or experiencing poverty, and women experiencing domestic and family violence. Currently in many regional areas women have to travel unacceptable distances, incur travel costs (which could include overnight accommodation) or even travel across the border to obtain the services they require. For example, in Wagga Wagga and Albury women are forced to travel across the border to access comprehensive reproductive healthcare in Canberra or Victoria. Culturally appropriate services are also not available in many regional areas.

It has been shown in other jurisdictions that decriminalisation of abortion does not result in more terminations.[2] However, it does have the ability to allow for better access and begin to remove the above barriers.

Amendments
A number of the proposed amendments are deeply concerning to our constituents. They would disproportionately and adversely impact on vulnerable women and those experiencing multiple and intersecting forms of disadvantage as described above.

NCOSS has the following concerns:

Reducing the gestation period
The gestational period in the Bill should not be reduced below 22 weeks. The proposed legislation of a gestation period of 22 weeks is modelled on the recently passed Queensland legislation. It takes into consideration the 18-20 week routine scan, which can detect severe or fatal foetal abnormalities that are not detectable at earlier scans. The 22 week gestation period is supported by legal and medical experts and peak bodies, including AMA (NSW) and RANZCOG.

Only 0.7% of abortions in Australia occur after 20 weeks.[3] After this point terminations are

[1] United Nations Economic and Social Council 2019, *Commission on the Status of Women Sixty-third Session Agreed Conclusions*, p.17, provision (uu), available at: https://undocs.org/en/E/CN.6/2019/L.3
[2] Kwok, L. et. al. 2018, Abortion Worldwide 2017: Uneven Progress and Unequal Access, Guttmacher Institute, available at: https://www.guttmacher.org/report/abortion-worldwide-2017
[3] Victorian Law Reform Commission 2008, *Law of Abortion: Final Report*, available at: https://www.lawreform.vic.gov.au/content/law-abortion-final-report-html-version

only undertaken for very serious and tragic reasons where:

- In the case of a wanted pregnancy, a woman has learnt of a severe or fatal foetal abnormality;
- The continuation of a wanted pregnancy will threaten the life of the woman;
- A woman experiencing domestic and family violence has been prevented from previously accessing reproductive healthcare; or
- A woman is experiencing a substance dependence.

Current regulation, frameworks and clinical guidelines sufficiently regulate procedures at this period and involve specialised and multi-disciplinary teams who thoroughly examine a woman's circumstances.

NCOSS is concerned that reducing the gestational period below 22 weeks would disproportionately impact on vulnerable women, women experiencing poverty, women experiencing domestic and family violence and rural women. It would place unnecessary time pressures on women who need time to process and consider what is a complex and difficult decision, or who cannot get an appointment immediately – which is often an issue in regional areas. A parliamentary inquiry addressing this issue in Queensland heard that women can feel rushed in their decision making.[4] In addition, free screening for chromosomal abnormalities are not available until after 18 weeks, so a reduced gestational limit would disproportionately impact on women experiencing poverty.

Requiring counselling

NCOSS opposes any mandated counselling, as this can in fact be detrimental to a patient's mental health. It is also an unnecessary provision as current guidelines and good practice ensure reproductive healthcare services make unbiased counselling service information available where appropriate.

Requiring the approval of a hospital advisory committee or panel after 22 weeks

As previously stated current regulation, frameworks and clinical guidelines sufficiently regulate procedures at this gestational period and involve specialised and multi-disciplinary teams. Therefore further regulation is unnecessary. Further, mandatory committee processes can impose time-delays (particularly in regional areas) and further distress and disempower vulnerable women.

Legislating against gender-selective abortion

This is an unnecessary amendment that was introduced on the highly prejudiced and completely unfounded notion that some cultural communities may choose abortion based on gender.

A Senate Inquiry in 2013[5] – in response to a Bill before the federal parliament seeking to restrict Medicare funding for gender selective abortions – found that:

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[4] Queensland Parliament 2018, *Public Hearing – Inquiry into the Termination of Pregnancy Bill 2018*, Transcript of Proceedings, Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee, 11 September, Cairns, available at: https://www.parliament.qld.gov.au/documents/committees/HCDSDFVPC/2018/TerminationOfPregnancyB18/trns-ph-11Sep2018.pdf

[5] Commonwealth of Australia 2013, *Health Insurance Amendment (Medicare Funding for Certain Types of Abortion) Bill 2013*, available at: https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Finance_and_Public_Administration/Completed_inquiries/2010-13/healthinsuramendbill2013/report/index

- There was no evidence that this practice was taking place in Australia;
- The response should be community education; and
- Some genetic conditions are sex-specific so legislating around this issue could prevent access that is needed for couples at risk of medical genetic conditions.

Not requiring a conscientious objector to provide information/referral

This amendment can disproportionately impact on disadvantaged women and create barriers to their access of timely and adequate reproductive healthcare. There is already a lack of medical practitioners who can provide terminations in regional areas and this amendment will significantly disadvantage women in regional and remote areas with already few options. It will also impact on women experiencing poverty, who struggle to meet the expenses of travel and access to appointments. CALD and Aboriginal women may not pursue a second practitioner if not provided with adequate referral information due to existing cultural and language barriers.

Doctors have a duty of care to all patients and must act in their best interests. They must be required to refer patients to ensure all women have access to timely and adequate healthcare.

NCOSS strongly urges you to support the Bill in its current form and recommend against any amendments.

Yours sincerely

Joanna Quilty
Chief Executive Officer
NSW Council of Social Service