family planning victoria
Sexual & Reproductive Health
Care. Education. Advocacy.

Submission to Legislative Council Government Administration Committee "A" Inquiry

Tasmanian Reproductive Health (Access to Terminations) Bill 2013

July 2013

About Family Planning Victoria

Family Planning Victoria (FPV) is a leading, not for profit, statewide provider of sexual and reproductive health care, education and advocacy. Governed by a voluntary board of directors, we have been providing comprehensive sexual and reproductive health services in Victoria for over 40 years.

The services that we provide are accessible, culturally relevant and responsive to the needs of the diverse Victorian community. These services include clinical care, education and training to help build the capacity of educators and health care professionals to provide sexual and reproductive health services in their communities. In doing so, we aim to empower disadvantaged, at risk and marginalised people who experience difficulty in accessing mainstream services.

Our clinical services include providing information, advice and screening and treatment of a range of sexual and reproductive health issues including contraception, pregnancy, screening and certification for sex workers, sexually transmissible infection testing and treatment, services for young people and people with intellectual disabilities. As a specialised clinical service, we also play an important role in training health care professionals.

FPV is therefore well placed to provide informed input into this inquiry.

Introduction

FPV applauds the Tasmanian Government's initiative to review current abortion law and bring it into line with current clinical practices. We support the passing of the "Reproductive Health (Access to Terminations) Bill 2013".

We consider the current laws in Tasmania are inappropriate and do not reflect current practice or majority community attitude to abortion.[1][2][3][4][5][6] We therefore support them sitting within a health framework, and not criminal law as they currently do.

It is widely acknowledged that throughout history, whether lawful or not, women have sought abortions as a means of dealing with unwanted pregnancies.

FPV considers changing the law to reflect current practice will not result in an inappropriate increase in the number of abortions performed.

Rather, implementing clear, equitable laws relating to abortion will pave the way for better, more open discussion on the issue of unplanned pregnancies. FPV considers addressing this issue is the only safe way to possibly reduce the number of abortions performed. The keys to reducing unplanned pregnancies are more equitable access to contraception and improved sexual health education.[7]

Although it is outside the terms of reference of this inquiry, we consider it is important to emphasise the interrelationship between these issues.

FPV works within the World Health Organisation (WHO) Charter and their assertion that although "Impressive gains in contraceptive use have resulted in reducing the number of unintended pregnancies, but have not eliminated the need for access to safe abortion".[8]

FPV agrees with and supports the WHO stance on safe abortion which cites the agreement of governments participating in a special session of the United Nations (UN) General Assembly (June 1999) that: *'in circumstances where abortion is not against the law, health systems should train and equip health-service providers and should take other measures to ensure that such abortion is safe and accessible. Additional measures should be taken to safeguard women's health.'*[9]

As long as laws relating to abortion remain unclear and leave doctors unsure of their legal position, the practice is unlikely to be something in which doctors will seek to be trained. It is therefore imperative the Tasmanian Government take action to remove the stigma from this type of clinical practice.

FPV does not promote abortion as a method of contraception, but accepts its place in the provision of safe clinical reproductive health options. Legalising abortion does

not make it more attractive; just safer for those women who seek it.

In relation to the Bill, FPV has considered a number of points.

Ethical and legal principles should inform the law of abortion

FPV works within the *Charter of Human Rights and Responsibilities Act 2006*. We acknowledge the Act does not apply to abortion and that an unborn foetus has no rights at law. We agree with the WHO interpretation of the UN stance on safe abortion.

We affirm the democratic right to express an opinion and are sensitive to those in the community who feel abortion is wrong. However, we consider laws should be based on that which is ethically acceptable to the majority of the community. Safe abortion services are necessary to protect the health of women who choose to access abortion services.

FPV considers every woman has the right to control her reproductive health. We consider she has the right to access to evidence-based information on unplanned pregnancy options, as well as equitable access to safe and lawful abortion services upon request.

FPV supports the Bill in allowing lawful termination up to 16 weeks gestation in women who are able to give informed consent. However, FPV considers that up to the gestational point where a foetus is viable outside the uterus, no further restriction other than the ability to give informed consent should be required for access to lawful, safe abortion.

FPV supports access to abortion after 16 weeks gestation as allowed by the Bill. FPV considers that after the point of foetal viability outside the uterus, a suitably trained doctor should be permitted to induce an abortion at the request (and with the informed consent) of a pregnant woman, so long as that doctor believes the woman's health or wellbeing is at risk if the pregnancy continues, or if there is significant foetal abnormality.

FPV considers mature minors should be allowed equal access to confidential safe abortion services.

FPV considers women deserve protection from protesters and moral objectors to abortion and supports the inclusion of part 2 section 9 in the Bill.

While these issues are not covered in the Bill, FPV equally considers:

- Women deserve protection from those who might force them into an abortion.
- Women in rural or remote areas of this state deserve equal access to safe, timely abortion services.

- Abortion services should be available in all publicly funded hospitals where obstetric or gynaecological services are provided as a stipulation of funding.

Policy objectives of any law of abortion

Any laws relating to or affecting abortion practice should be aimed at ensuring those women seeking abortions have equitable, timely access to appropriate clinical services and safe clinical management.

FPV considers these objectives are not currently met in Tasmania because of the existing confusing laws, stigma and the presence of protesters who picket clinics and the existence of biased information services

Foetal abnormality

Currently, it is normal antenatal clinical practice to screen for some foetal abnormalities, including chromosomal and other disorders, at various times in pregnancy. These may be detected by investigations including blood test and ultrasound. Women want to know the results of prenatal testing for a number of reasons: some choose to know so they can be prepared to deal with the birth of a disabled child; others choose to know because they have already decided they will terminate if certain abnormalities are found.

FPV considers couples and women should be properly informed of their options and the meaning of these tests prior to screening, so they can be prepared for any outcome.

Some foetal abnormalities, however, are not currently diagnosable until later in the pregnancy. It is important couples are not discriminated against in relation to potentially accessing abortion services because diagnosis is late.

In Victoria, terminations of pregnancy beyond 24 weeks gestation can be carried out provided two doctors agree that it is appropriate with regard to all relevant medical circumstances; and the woman's current and future physical psychological and social circumstances.[10]

FPV supports the inclusion in the Bill of access to lawful termination after 16 weeks if two medical practitioners reasonably believe that the continuation of the pregnancy would involve greater risk of injury to the physical or mental health of the pregnant woman than if the pregnancy were terminated.

It is also important that no woman be coerced to terminate a pregnancy on the basis of foetal abnormality.

Conditions for lawful termination, depending on the stage of the pregnancy

The overwhelming majority of people in our community agree every woman has the right to control her fertility and if a woman seeks to terminate her pregnancy, she should have access to safe medical procedures. However, FPV acknowledges some people have difficulty with the notion of abortion upon request, particularly after the foetus is capable of survival independently outside the uterus.

It must be emphasised that there are very few terminations performed over 20 weeks.[11] [12] It is offensive to the women of Tasmania to consider that these, or any termination of pregnancy, is taken lightly by her or her doctors.

FPV is mindful discussion about abortion is frequently sidelined and bogged down in the emotive detail of the exceptions. We strongly assert that these exceptions should not end up restricting the vast majority of terminations that are straight forward, early and uncomplicated.

FPV considers that for gestations up until the foetus is capable of independent life outside the uterus, the only requirement for lawful termination of pregnancy should be that the pregnant woman has requested the termination and is competent to have given informed consent, and that the procedure (including prescription of medication) is performed by an appropriately qualified, registered medical practitioner. FPV considers nothing more restrictive should apply to gestations below the gestation where the foetus is capable of independent life.

FPV considers there must be no arbitrary upper gestational limit for lawful abortion and that maternal health risk and foetal abnormality should be valid reasons for termination after the gestation where the foetus is considered viable outside the uterus.

The role of the medical practitioner

FPV believes that any appropriately trained and skilled registered medical practitioner can make a decision about a woman's ability to give informed consent to an abortion, without consulting another doctor, taking into account the woman's medical, psychological and social health. Obviously, if clinical fitness is in doubt, a medical practitioner may refer the woman to another practitioner for an opinion. Importantly, this is a clinical decision and doesn't require legislation, rather clinical guidelines.

FPV acknowledges the Bill's indication that a specialist in obstetrics and gynaecology must be involved in decisions where the gestation is beyond 16 weeks, but believes this may put unnecessary restrictions on the woman and may delay access to services.

Counselling and information

FPV strongly opposes any proposal for mandatory counselling or information sessions in order to qualify for termination of pregnancy. We consider the need for counselling is a clinical decision and clinical guidelines should set out recommendations for when counselling is indicated, not legislation. We support the non-inclusion of mandatory counselling in the Bill.

FPV considers education and access to information about issues related to unplanned pregnancies and the full range of pregnancy outcome options should be taught as a normal part of sexual health education.

Conscientious objection

FPV supports the Bill's inclusion of the clause that appropriately skilled medical practitioners have a duty to perform, and nurses have a duty to assist in performing, a termination where it is necessary to save the life of a pregnant woman or to prevent her serious physical injury.

FPV considers it is important that if a doctor has a conscientious objection to perform or refer a woman for an abortion, it should be mandatory that he or she refers that woman on to another practitioner who has no moral objection to abortion, and that this must be done in a timely fashion.

We consider any institution that employs health professionals should respect an individual's right to conscientious objection. We also consider that institutions that employ health professionals (including counsellors) should not be permitted to interfere with the clinical judgement of their employees with regard to referring women for abortion or giving proper evidence-based information on related topics.

Key elements new law of abortion in Tasmania

FPV would like to see the following key elements:

- that abortions are safe and lawful for those women who seek them
- that there be no upper limit for lawful termination
- that if restrictions, other than consent and request, are deemed necessary these should only apply where the gestation is such that the foetus is considered viable outside the uterus.
- that if restrictions are put in place, only one doctor should be required to assess the woman's eligibility for termination of pregnancy and it should be enough that continuing the pregnancy will have a substantial detrimental effect on her mental and/physical health.
- that foetal abnormality is included as a reason for lawful termination

- that women's privacy is protected
- that women have equitable access to evidence-based information and abortion services
- that mature minors have the same rights as other women in relation to abortion access
- that states are mandated to record numbers and gestations for assessment of safety, quality assurance and success or otherwise of public health interventions.

Other comments

We consider the law should restrict itself to defining the limits of lawfulness and not interfere with clinical judgement. We consider appropriate clinical guidelines should be drawn up to complement the law, and that the proper organisations to do this are Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG), Royal Australian College of General Practitioners (RACGP), FPV and the National Health and Medical Research Council (NHMRC).

We are concerned that rural and other marginalised women are currently disadvantaged and should have equity in access to information and services. We consider it is incumbent upon the Tasmanian Government to provide abortion services in all publicly funded hospitals that provide women's health services. We also consider that where there is a social, financial or geographical barrier, the government should provide assisted travel for those women who wish to access abortion services.

FPV considers it important to collect and collate accurate (de-identified) health data in order to improve practice. In relation to termination of pregnancy, Medicare data is not currently accurate as it includes other procedures and groups Victoria with Tasmania.

Termination of pregnancy should be subject to the same types of reporting criteria that apply to other clinical procedures. At most, demographic and complication reporting should be all that is required for the purposes of improving clinical practice.

Reporting protocols should be written in guidelines rather than legislation, and be no more proscriptive than any other clinical procedure. It is imperative any information collected protects the privacy of all women.

FPV would be delighted to assist with further development of any of the points raised in this paper. We are grateful for the opportunity to contribute to this important move forward in reproductive health.

References

[1] de Crespigny, Lachlan J and Savulescu, Julian. *Abortion: Time to clarify Australia's confusing laws.* MJA 2004: 181(4) 2004, pp201–203. http://www.mja.com.au/public/issues/181_04_160804/dec10242_fm.html

[2] De Costa, Caroline et al. *Introducing Early Medical Abortion in Australia: There is a need to update abortion laws.* Sexual Health 4(4) 28 Sept 2007, pp223–226. http://www.publish.csiro.au/?paper=SH07035

[3] Betts, Katherine. *Attitudes to Abortion in Australia: 1972–2003.* People and Place 12(4), 2004, p28. Monash University online at http://elecpress.monash.edu.au/pnp/view/issue/?volume=12&issue=4

[4] Read, Christine. *The Abortion Debate in Australia.* Australian Family Physician 35(9), Sept 2006, p699. http://www.racgp.org.au/Content/NavigationMenu/Publications/AustralianFamilyPhys/2006issues/afp200609/20060906read.pdf

[5] Kelley, Jonathan and Evans, M D R. *Trends in Australian Attitudes to Abortion 1984–2002. Australian Social Monitor* 6(3), 2003, pp45–53.

[6] Roy Morgan Polls—media release: *Majority of Australians think Abortion Pill (RU486) should be made available to Australian women.* http://www.roymorgan.com/news/polls/2006/3978/

[7] Marston, Cicely and Cleland, John. *Relationships between Contraception and Abortion: A review of the evidence.* International Family Planning Perspectives 29(1), March 2003.
Full article published on line at http://www.alanguttmacher.org/pubs/journals/2900603.pdf

[8] World Health Organisation, *Safe Abortion Services: Technical and policy guidance for health systems. Second edition,* 2012, ch 1, p17, pnt 3. http://www.who.int/reproductivehealth/publications/unsafe_abortion/9789241548434/en/

[9] World Health Organisation, *Safe Abortion Services: Technical and policy guidance for health systems. Second edition, 2012,* WHO, Chapter 4 p47. http://www.who.int/reproductivehealth/publications/unsafe_abortion/9789241548434/en

[10] Abortion Law Reform Act 2008, Victorian Government

[11] Grimes, David A. *Induced Abortion: An overview for Internists. Ann Intern Med.* 2004, 140, pp620–626.

[12] The Consultative Council on Obstetric and Paediatric Mortality and Morbidity: *Annual Report for the Year 2005.* http://www.health.vic.gov.au/perinatal/downloads/ccopmm_annrep05.pdf