



Public Health Association
AUSTRALIA

**Public Health Association of
Australia submission on the
proposed changes to pregnancy
termination laws in Tasmania**

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The Public Health Association of Australia

The Public Health Association of Australia Incorporated (PHAA) is recognised as the principal non-government organisation for public health in Australia and works to promote the health and well-being of all Australians. The Association seeks better population health outcomes based on prevention, the social determinants of health and equity principles.

Public health includes, but goes beyond the treatment of individuals to encompass health promotion, prevention of disease and disability, recovery and rehabilitation, and disability support. This framework, together with attention to the social, economic and environmental determinants of health, provides particular relevance to, and expertly informs the Association's role.

PHAA is a national organisation comprising around 1900 individual members and representing over 40 professional groups concerned with the promotion of health at a population level.

Key roles of the organisation include capacity building, advocacy and the development of policy. Core to our work is an evidence base drawn from a wide range of members working in public health practice, research, administration and related fields who volunteer their time to inform policy, support advocacy and assist in capacity building within the sector. PHAA has been a key proponent of a preventive approach for better population health outcomes championing such policies and providing strong support for the Australian Government and for the Preventative Health Taskforce and National Health and Medical Research Council (NHMRC) in their efforts to develop and strengthen research and actions in this area across Australia.

PHAA has Branches in every State and Territory and a wide range of Special Interest Groups. The Branches work with the National Office in providing policy advice, in organising seminars and public events and in mentoring public health professionals. This work is based on the agreed policies of the PHAA. Our Special Interest Groups provide specific expertise, peer review and professionalism in assisting the National Organisation to respond to issues and challenges as well as a close involvement in the development of policies. In addition to these groups the Australian and New Zealand Journal of Public Health (ANZJPH) draws on individuals from within PHAA who provide editorial advice, and review and edit the Journal.

In recent years PHAA has further developed its role in advocacy to achieve the best possible health outcomes for the community, both through working with all levels of Government and agencies, and promoting key policies and advocacy goals through the media, public events and other means.

Submission on the proposed changes to pregnancy termination laws in Tasmania

The PHAA is welcoming the proposed changes in the legislation. It has a history of advocating for legislative changes in states and territories where abortion is still located in the criminal code.

Why should abortion be removed from the criminal code?

It is critical that abortion is removed from the criminal code in Tasmania, because PHAA believes it is an inappropriate vehicle for regulating the provision of abortion:

- 1. Abortion should be regulated, as are all other medical services, under existing health care legislation** – There is no case for singling out the abortion procedure in any area of legislation. Under the current legislation there is a fear of criminal charges for medical practitioners and there is also a risk of prosecution for patients, as occurred in a recent high profile case in Queensland, where similar laws still exist. It is hoped that the new legislation will overcome the current ambiguity and will protect both medical practitioners and patients.
- 2. It is influencing the termination services that are being provided** – There is sufficient evidence in Tasmania that termination services are adversely affected by the current legislation. Generally, only two private clinics are available for terminations, who use fly-in / fly-out doctors and can only perform terminations prior to 12 weeks. After 12 weeks, women are required to travel interstate. In line with international obligations, it is a human right to have good access to safe pregnancy termination services.
- 3. The current laws are not in line with modern societal values** – A recent survey conducted by Family Planning Tasmania indicates there is strong public support for this reform. The research also revealed that many Tasmanians are currently unaware that abortion is still illegal in Tasmania, with women required to have at least two doctors certify that continuation of the pregnancy will cause more harm than if the pregnancy was terminated, in order to access a termination.

See below PHAA's national position on abortion. The full policy can be found in Attachment A.

Public Health Association of Australia:

Policy-at-a-glance – Abortion Policy

Key message:

- 1. The primary public health goal in the area of unintended pregnancy is prevention. Health resources at both public health and individual health care level should focus on improving fertility control and informed decision making.**
- 2. Even with good prevention initiatives, not all unplanned pregnancy can be avoided. In addition, abortion is often medically indicated for wanted, planned pregnancies which then become unviable due to severe foetal deformity or death in utero. Therefore even with the best prevention, there will always be a need for abortion services.**
- 3. The law pertaining to abortion is still located in the criminal statutes and codes in some states and territories. The criminal law is an inappropriate vehicle - both in principle and practice - for regulating the provision of abortion.**

Summary: All reference to abortion should be removed from the criminal laws and codes of the States and Territories of Australia. Abortion should be regulated, as are all other medical services, under existing health care legislation. There is no case for singling out the abortion procedure in any area of legislation. Abortion services should be included in service planning for all state and territory health authorities. In addition, PHAA will continue to advocate for a comprehensive national approach to sexual and reproductive health which has a prevention and health promotion focus.

The right to choose

The proposed legislation gives the women the right to choose, rather than being dependent on the views of doctors.

While there will be a number of groups who will be against any abortion based on their moral values, these groups are entitled to their values, but should equally be respectful for alternative views. The decision making process around this issue is complex and the scenario is different for every women. It is the women itself who should have the right to choose. The new legislation will allow for any moral value on termination.

Will the proposed changes increase the rate of terminations?

We do not believe it will. Across countries there is no correlation between legalisation and rates of terminations. Also, in Victoria there is no evidence to suggest that the changed legislation has increased the rates of terminations. What *will* influence the rates of terminations are preventative measures such as good sexual and reproductive health education in all schools and improved access to contraception. This is what the Tasmanian government has been working on and should be congratulated for. The Making Choices Taskforce is working on a number of strategies, and the

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newly released Sexuality and Relationships Education in Tasmanian Government Schools Strategy should make a difference if executed well.

Are terminations associated with subsequent mental health issues?

No. Good quality research, which takes into account psychiatric history, violence exposure, social support, personal characteristics and circumstances at the time of termination, barriers to access and other influences on mental status, does not convincingly indicate that terminations are a risk factor of psychiatric illness. This was concluded by a 2009 review of all international literature,¹ as well as by an analysis of the Australian Longitudinal Study on Women's Health.² Moreover, this conclusion is consistent with the findings of the Royal Australian and New Zealand College of Obstetricians and Gynaecologists in its review of 72 studies and 27 review articles concerning the psychological consequences of terminating pregnancy.³ The study concluded that legal and voluntary termination of pregnancy rarely causes immediate or lasting negative psychological consequences in healthy women.

Comment on specific components of the proposed legislation

- While PHAA theoretically believes that all reference to abortion should be removed from the criminal laws, section 178D and 178E seem reasonable given there has been a history backyard abortions and these sections do not influence the intention that is aimed to be achieved.
- Different regulation after 24 weeks – Theoretically there does not need to be a different regulation for termination after 24 weeks. The determination of gestational cut-offs is somewhat arbitrary, impedes generally on a women's right to choose, might lead to continuing controversy and might require further legislative review with evolving medical technology. Regarding the proposed changes in Tasmania, it will impede theoretically on the women's right to choose, because signatures are required from two medical practitioners. However, given that terminations after 20 weeks only occur in 0.7% of the cases and they will only occur in exceptional circumstances such as extreme abnormalities observed on the 20 week ultrasound scan, the decision making process of the women will be done in close consultation with medical practitioners. Because of this and the intent of the rest of the legislation, it is not anticipated that the women's right to choose will be overruled by the medical profession.
- Obligation to refer – It is only appropriate that a doctor with a conscientious objection refers a patient on to another medical practitioner.
- Access zones – The right to protest will not be prevented with this legislation. However, the location of the protest is somewhat restricted in order to protect women and families accessing termination services, which is appropriate.

1. *Robinson GE, Stotland NL, et al. (2009). "Is There an "Abortion Trauma Syndrome"? Critiquing the Evidence." Harvard Review of Psychiatry 17: 268-290.*
2. *Taft AJ and Watson L (2008). "Depression and termination of pregnancy (induced abortion) in a national cohort of young Australian women: the confounding effect of women's experience of violence." BMC Public Health 8(75).*
3. *Royal Australian and New Zealand College of Obstetricians and Gynaecologists. Termination of pregnancy: a resource for health professionals. East Melbourne, Australia: RANZCO, 2005.*

Conclusion

PHAA supports the proposed changes to the legislation.

Please do not hesitate to contact us should you require additional information or have any queries in relation to this submission.



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27 March 2013



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Appendix A. PHAA Abortion Policy Position



Public Health Association
AUSTRALIA

Public Health Association of Australia:

Policy-at-a-glance – Abortion Policy

Key message:

1. The primary public health goal in the area of unintended pregnancy is prevention. Health resources at both public health and individual health care level should focus on improving fertility control and informed decision making.
2. Even with good prevention initiatives, not all unplanned pregnancy can be avoided. In addition, abortion is often medically indicated for wanted, planned pregnancies which then become unviable due to severe foetal deformity or death in utero. Therefore even with the best prevention, there will always be a need for abortion services.
3. The law pertaining to abortion is still located in the criminal statutes and codes in some states and territories. The criminal law is an inappropriate vehicle - both in principle and practice - for regulating the provision of abortion.

Summary:

All reference to abortion should be removed from the criminal laws and codes of the States and Territories of Australia. Abortion should be regulated, as are all other medical services, under existing health care legislation. There is no case for singling out the abortion procedure in any area of legislation. Abortion services should be included in service planning for all state and territory health authorities. In addition, PHAA will continue to advocate for a comprehensive national approach to sexual and reproductive health which has a prevention and health promotion focus.

Audience:

Australian, State and Territory Governments, policy makers and program managers.

Responsibility:

PHAA's Women's Health Special Interest Group (SIG)

Date policy adopted:

September 2011

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ABORTION POLICY

The Public Health Association of Australia recognises that:

1. The primary public health goal in the area of unintended pregnancy is prevention. Health resources at both public health and individual health care level should focus on improving fertility control and informed decision making.
2. Even with good prevention initiatives, not all unplanned pregnancy can be avoided. In addition, abortion is often medically indicated for wanted, planned pregnancies which then become unviable due to severe foetal deformity or death in utero. Therefore even with the best prevention, there will always be a need for abortion services.
3. A significant proportion of Australian women (around 25%) undergo an abortion at some stage during their reproductive lives. Both medical and surgical abortion have been shown to be safe procedures. The Royal College of Obstetrics and Gynaecologists says "...abortion is safer than continuing a pregnancy to term..."ⁱ.
4. Prior to safe and legal abortion services becoming accessible in the late 1960s and early 1970s illegal abortion was a major cause of maternal mortality in Australia. Since then, abortion deaths have been very rare, and have usually occurred in women with multiple pre-existing health problemsⁱⁱ.

The Public Health Association of Australia notes that:

5. Therapeutic abortion is one of the most commonly performed gynaecological procedures and is done for a range of medical and non-medical reasons.
6. The earlier (in gestational terms) an abortion is performed, the less impact physically and emotionally on the woman and there is less community concern regarding first trimester abortions, therefore timely and affordable access to abortion services is extremely important.
7. While there are diverse views on many aspects of abortion, the Australian community is increasingly supportive of women's access to safe, legal abortionⁱⁱⁱ.
8. Australian women undergoing termination of pregnancy have higher rates of socio-economic disadvantage and partner violence than the general population. A social determinants approach to health including preventing violence against women is needed.
9. States and territories which have removed reference to abortion from their criminal legislation have not seen any increase in abortion rates.

PHAA submission on pregnancy termination laws in Tasmania

The Public Health Association of Australia believes that:

10. The law pertaining to abortion is still located in the criminal statutes and codes in some states and territories^{iv}. The criminal law is an inappropriate vehicle - both in principle and practice - for regulating the provision of abortion.
11. All reference to abortion should be removed from the criminal laws and codes of the States and Territories of Australia. Abortion should be regulated, as are all other medical services, under existing health care legislation. There is no case for singling out the abortion procedure in any area of legislation. Abortion services should be included in service planning for all state and territory health authorities.
12. While private services are invaluable and can offer greater privacy and confidentiality, publicly funded services should be available in all states and territories along with other reproductive health services, especially for women experiencing financial disadvantage and limited access.
13. Australian women currently have limited options for medical termination of pregnancy. Abortifacient drugs such as mifepristone should be more widely available in publicly funded services to allow women and doctors to choose the most appropriate abortion method for the individual concerned.
14. Medicare rebates for abortion procedures should provide adequate recompense.
15. Counselling offered to women considering abortion should always be non-judgmental, professional and provide advice on all options including referral pathways.
16. Abortion service providers should always offer optional, comprehensive pre and post-abortion counselling.

The Public Health Association of Australia resolves that:

17. The Board, Women's Health Special Interest Group and State/Territory Branches of the Association should take all appropriate steps to keep federal and jurisdictional members of parliament aware of the views of the Association and the health consequences of any restriction of access to safe, affordable and accessible abortion services; and further to lobby for the removal of abortion from all state and territory criminal codes and greater access to medical abortion as an option for Australian women.
18. The Association continue to provide evidence-based information about abortion in Australia in an accessible format through regular revision of the booklet: *Abortion in Australia: Public Health Perspectives*^v.
19. The Board, Women's Health Special Interest Group and State/Territory Branches actively advocate for a comprehensive national approach to sexual and reproductive health which has

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a prevention and health promotion focus (see http://www.phaa.net.au/documents/SRH_call_to_action.pdf and http://www.phaa.net.au/documents/SRH_background_paper.pdf)

References

ⁱ Royal College of Obstetricians and Gynaecologists, 2004, *The care of women requesting induced abortion*. London; Report No. 7

ⁱⁱ National Health and Medical Research Council Maternal Mortality Working Party (1988). Report on Maternal Deaths in Australia 1991-93. Canberra: Commonwealth of Australia.

ⁱⁱⁱ Victorian Law Reform Commission (2008) *Law of Abortion Final Report*. pp57-68.

^{iv} Victorian Law Reform Commission (2008) *Law of Abortion Final Report*. pp 21-24.

^v Public Health Association of Australia (2005). Abortion in Australia: Public Health Perspectives http://www.phaa.net.au/documents/phaa_abortion_kit.pdf

ADOPTED 1989, REVISED AND RE-ENDORSED IN 1996, 2005, 2008 AND 2011

First adopted at the 1989 Annual General Meeting (AGM) of the Public Health Association of Australia (PHAA). Revised and re-endorsed at the 1996, 2005 and 2008 AGMs. Most recently revised and re-endorsed as part of the 2011 policy revision process.