Public Health Association of Australia submission on safe access zones – Proposal for reform in WA

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Preamble

The Public Health Association of Australia

The Public Health Association of Australia (PHAA) is recognised as the principal non-government organisation for public health in Australia working to promote the health and well-being of all Australians. It is the pre-eminent voice for the public’s health in Australia.

The PHAA works to ensure that the public’s health is improved through sustained and determined efforts of the Board, the National Office, the State and Territory Branches, the Special Interest Groups and members.

The efforts of the PHAA are enhanced by our vision for a healthy Australia and by engaging with like-minded stakeholders in order to build coalitions of interest that influence public opinion, the media, political parties and governments.

Health is a human right, a vital resource for everyday life, and key factor in sustainability. Health equity and inequity do not exist in isolation from the conditions that underpin people’s health. The health status of all people is impacted by the social, cultural, political, environmental and economic determinants of health. Specific focus on these determinants is necessary to reduce the unfair and unjust effects of conditions of living that cause poor health and disease. These determinants underpin the strategic direction of the Association.

All members of the Association are committed to better health outcomes based on these principles.

Vision for a healthy population

A healthy region, a healthy nation, healthy people: living in an equitable society underpinned by a well-functioning ecosystem and a healthy environment, improving and promoting health for all.

The reduction of social and health inequities should be an over-arching goal of national policy and recognised as a key measure of our progress as a society. All public health activities and related government policy should be directed towards reducing social and health inequity nationally and, where possible, internationally.

Mission for the Public Health Association of Australia

As the leading national peak body for public health representation and advocacy, to drive better health outcomes through increased knowledge, better access and equity, evidence informed policy and effective population-based practice in public health.
Introduction

PHAA welcomes the opportunity to provide input to the proposal to introduce safe access zones in Western Australia. PHAA’s fundamental position is that abortion is a safe, common medical procedure which should be regulated in the same way as other medical procedures, without additional barriers or conditions. The ability to access safe abortion services supports women’s health and allows them to contribute equally to work and community life. An inability to access safe services contributes to economic disadvantage for women, as well as exacerbating health inequalities.

Universal access to safe abortion is an essential element of the provision of high quality reproductive health for women in Australia. All harassment and intimidation is clearly an improper interference in women’s rights to access information and services, which in Western Australia has been lawful since 1998. Safe Access Zones allows women, and those accompanying them, to access lawful services in a safe and confidential manner. It also allows health professionals and staff to access their workplaces without harassment or intimidation.

PHAA Response to the discussion paper

Do you support the introduction of safe access zones around premises that provide abortion services in Western Australia?

Universal access to safe, legal abortion services is essential to optimal reproductive health outcomes, including reducing maternal morbidity and mortality, and is consistent with achieving the United Nations Sustainable Development Goals. Most Australians support women’s access to safe, legal abortion. Critically, access includes safe access without obstruction, abuse, intimidation or harassment interfering with the right to access legal abortion services. Safe access zones are needed to safeguard women’s human rights in relation to abortion and have an important role in ensuring privacy, safety and equality of access to healthcare for women in Australia. The constitutionality of state legislation providing for safe access zoning was upheld by the High Court in April 2019.

Safe access zones have now been implemented in the majority of Australian jurisdictions, with legislation updated to protect people from harassment when they access services. Western Australia and the South Australia are yet to reform legislation.

PHAA supports the introduction of safe access zones around premises that provide abortion services in Western Australia. Safe access zones should be extended to all abortion services, including public and private hospitals, and clinics and general practices. These laws provide women access to safe abortion without the danger of harm, facilitating women’s right to reproductive autonomy.
During what times should safe access zones apply?

Safe access zones should apply at all times when it is relevant to protect women seeking information or services, and staff providing that information and services. In practice, legislating for safe access zones to apply at all times would prevent needless legal questions arising over whether those carrying out prohibited behaviours had knowledge that health centres were open for business, that staff were arriving at or leaving the centre outside official operating hours, that women seeking services were actually present, and so on.

How far should the safe access zone extend?

Similar to the legislation in Victoria, New South Wales, Tasmania, Queensland and the Northern Territory, the safe access zone should extend for 150m.

Do you agree with modelling the prohibited behaviours on the Victorian legislation?

The Victorian legislation is currently the most comprehensive in Australia and therefore the West Australian legislation should be modelled on this, to provide protection for all people accessing services. The Victorian legislation prohibits:

- besetting, harassing, intimidating, interfering with, threatening, hindering, impeding or obstructing a person attempting to access the premises;
- communicating by any means in relation to abortions in a manner that is able to be seen or heard by a person attempting to access the premises and which is reasonably likely to cause distress or anxiety;
- interfering with or impeding a footpath, road or vehicle; intentionally recording by any means another person attempting to access the premises;
- intentionally recording by any means, without reasonable excuse, another person attempting to access the premises, without that person’s consent.

Should the legislation specifically exclude the application of the buffer zone in certain circumstances?

PHAA supports the comprehensive Victorian legislation which does not allow for any circumstances where the application of the buffer zone should be excluded.

Are there other premises, other than abortion clinics, that should also be protected by safe access zones?

As stated in the discussion paper, safe access zones “are intended to protect the safety, dignity, wellbeing and privacy of individuals seeking health services by prohibiting certain behaviour within the prescribed zone”. If the issues relating to abortion services are experienced at other health services, then other premises should be protected.

In particular, PHAA supports the adopted of safe access zones to Needle and Syringe Programs (NSPs), including mobile vans, and other alcohol and drugs services where similar issues are experienced.
Conclusion

PHAA welcomes the work put into this proposal. We support the conclusion of the discussion paper that there is need for introduction of new legislation. In our submission, PHAA are particularly keen that the following points are highlighted:

- The introduction of safe access zones in Western Australia will allow those accessing abortion services to do so in a manner that is safe and confidential. New legislation would promote women’s health and work equality; and safeguard women’s human rights.
- Safe access zones should be extended to protect people accessing Needle and Syringe Programs, including mobile vans, and other alcohol and other drug services experiencing harassment. Individuals seeking these health services should be protected and feel safe to do so without fear of harassment and interference.

The PHAA appreciates the opportunity to make this submission. Please do not hesitate to contact me should you require additional information or have any queries in relation to this submission.

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Chief Executive Officer  PHAA Branch President  Co-Convenor  
Public Health Association of Australia  Western Australia  PHAA Women’s Health  Special Interest group

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References


