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# Health and Other Legislation Amendment Bill (No. 2) 2023 Submission

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A submission to the Queensland Parliament Health and Environment Committee in response to proposed amendments to the *Termination of Pregnancy Act 2018* and *Criminal Code Act 1899*

January 2024

## **Acknowledgement**

We acknowledge the Traditional Owners and Custodians of the land on which we live and work. We pay our respects to Aboriginal and Torres Strait Islander Elders past and present. We also acknowledge the enduring connection to their Traditional estates across Australia and to the ongoing passion, responsibility and commitment for their lands, waters, seas, flora and fauna as Traditional Owners and Custodians.

## **Publication details**

Published by  
MSI Australia (MSI Reproductive Choices)  
GPO Box 1635, Melbourne VIC, 3001  
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## MSI Australia

We are Australia's leading, specialised, non-profit advocate and provider of abortion and contraception services. MSI Australia is a part of MSI Reproductive Choices, a global non-profit which has been providing sexual and reproductive healthcare services for over 45 years. Our 9,000 team members worldwide work across 37 countries providing contraception, comprehensive abortion care, and maternal healthcare services wherever they're needed.

## Summary

In September 2023 introduced the *Health and Other Legislation Amendment Bill (No. 2) 2023* into the Queensland Parliament ("The Bill"). The Bill was referred to the Health and Environment Committee for detailed consideration.

The second section of the bill proposes to amend two pieces of legislation, the *Queensland Termination of Pregnancy Act 2018* ("The Act") and the *Queensland Criminal Code Act 1899* ("The Criminal Code"). This submission is written in response to that part of the Bill.

This part of the Bill outlines two directional shifts, firstly to broaden the prescriber base of medical abortion medication, and secondly to shift the gendered language of the legislation.

The Bill proposes greater alignment with national health policy. The Australian Government *Women's Health Strategy (2020-2030)* priority area 1 includes 'increase access to sexual and reproductive health care information, diagnosis, treatment and services'. A key measure of success is 'equitable access to pregnancy termination services'. This proposal provides tangible steps towards abortion equity in Australia.

We support the Bill and the proposed amendments to the *Queensland Termination of Pregnancy Act 2018* ("The Act") and the *Queensland Criminal Code Act 1899* ("The Criminal Code").

We outline below further considerations relevant to implementation.

## Nurse and midwifery leadership

Studies show shifting attitudes in Australia towards nurse and midwifery leadership in abortion care.<sup>1</sup> They point to legislative and policy barriers being a hurdle in moving beyond task based to comprehensive care.<sup>2</sup> Evidence highlights the value of nurses and midwives skills, knowledge and potential in extending scope of abortion care, particularly in supporting trauma informed care pathways.<sup>3</sup>

It should be noted that “performing” a medical abortion is not simply the “use” of a registered abortion drug. The prescribing of the drug is just one component of a care process that usually involves multiple health practitioners and multiple consultations and extensive clinical and other advice and support. It may also require referral to other services as required.

Nurse and midwifery-led care is evolving.<sup>4</sup> We are at a critical point in evolving models of care in order to maintain and expand access to medication abortion. Across the health system, Nurse Practitioners and Endorsed Midwives have experienced extended scope of practice, recognising their capacity and broader potential for healthcare. We note that each Nurse Practitioners or Endorsed Midwife would be ethically and professionally obligated to only prescribe if they are suitably competent.

## Practical considerations during implementation

Abortion care related working groups should oversee safe and effective implementation, including initiatives that promote collaboration across all hospital and health regions. Strategic investment in nursing and midwifery workforce development, training and support, will be required to align this with broader health system reforms. Access to the Pharmaceutical Benefits Scheme for subsidised cost of abortion medicines will be a critical factor.

Many Nurse Practitioners and Endorsed Midwives do not work in large hospital and health service settings that have Extended Practice Authorities because of indemnity related costs to the employer. Non-profit and primary care organisations will want to support and provide access to medication abortion provided by Nurse Practitioners

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<sup>1</sup> Mainey, Lydia, Catherine O'Mullan, Kerry Reid-Searl, Annabel Taylor, and Kathleen Baird. "The role of nurses and midwives in the provision of abortion care: A scoping review." *Journal of clinical nursing* 29, no. 9-10 (2020): 1513-1526.

<sup>2</sup> MSI Australia, *Nurse-led Medical Termination of Pregnancy in Australia: Legislative Scan, 2<sup>nd</sup> Edition* (2022) at <https://www.msiaustralia.org.au/nurse-led-care/>.

<sup>3</sup> Mainey L, O'Mullan C, Reid-Searl K. Unfit for purpose: A situational analysis of abortion care and gender-based violence. *Collegian*. 2022 Jan 29.

<sup>4</sup> MSI Australia, *Nurse-led Medical Termination of Pregnancy in Australia: Legislative Scan, 2<sup>nd</sup> Edition* (2022) at <https://www.msiaustralia.org.au/nurse-led-care/>.

and Endorsed Midwives however there will be significant training and development costs, insurance, and substantial policy/procedural implications.

Extending the scope of practice needs to recognise that medication abortion is clinical process rather than just a prescription. Relevant authorities should develop robust minimum standards, considering key areas such as:

- Diagnostic skills,
- Interpreting ultrasounds and other scans,
- Consent processes,
- Medicolegal indemnity and insurances,
- Management of complications, and referral
- Identification of urgent care needs,
- Cultural safety, and
- Safe prescribing including contraindications and drug interactions.

These considerations should be mitigated and managed by Queensland Health and other regulatory and practice agency review processes, like any other medication or health procedure.

### **Upholding the right to choose**

The Bill focuses on access to medical abortion care. People who seek abortion care must have choice between medical (medication) abortion and surgical (procedural) methods. Medical abortion via telehealth must be included.

Practitioners in all aspects of abortion care, including procedural methods, should participate in abortion care working groups that oversee implementation.

### **Inclusive language**

This language is reflective of people's gender identity and expression.

The purpose of gender-neutral language is to avoid words which may be perceived as 'biased, discriminatory or demeaning by implying that one sex or social gender is the norm'.<sup>5</sup>

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<sup>5</sup> EUROPEAN PARLIAMENT, GENDER-NEUTRAL LANGUAGE IN THE EUROPEAN PARLIAMENT 3 (2018) [https://www.europarl.europa.eu/cmsdata/151780/GNL\\_Guidelines\\_EN.pdf](https://www.europarl.europa.eu/cmsdata/151780/GNL_Guidelines_EN.pdf)

In the 1800's decades were spent removing 'the universal he' from legislation and de-gender all legislation. There is no need to reintroduce gendered language now.<sup>6</sup>

## **Further information**

Thank you for the opportunity to provide a submission on the Bill, which we are glad to support. Should you wish to discuss this submission further, please contact Greg Johnson, Managing Director at [greg.johnson@msiaustralia.org.au](mailto:greg.johnson@msiaustralia.org.au).

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<sup>6</sup> Wayne LD. Neutral pronouns: A modest proposal whose time has come. *Canadian Woman Studies/les cahiers de la femme*. 2005 Apr 1.

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