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Committee Secretary
Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee
Via email: ***health@parliament.qld.gov.au***

To the Committee Secretary

Thank you for providing AMA Queensland with the opportunity to give feedback to the Health, Communities, Disability Services and Family Violence Prevention Committee's inquiry into the *Termination of Pregnancy Bill 2018*.

AMA Queensland is the state's peak medical advocacy group, representing over 6000 medical practitioners across Queensland and throughout all levels of the health system. We have previously advocated publicly on issues of public health, vaccination and medical regulation. Our members take a very strong interest in medico-legal issues given their importance the health system in Queensland.

AMA Queensland supports many of the intentions of this legislation. Queensland's current laws, which criminalise terminations of pregnancy are a barrier to a doctor's first duty – best patient care. This bill, should it become law, would provide legal certainty to Queensland doctors when it comes to performing terminations of pregnancy and patients who seek termination from doctors.

Our organisation provided a submission to the Queensland Law Reform Commission (QLRC) as part of the consultation process it undertook for the creation of this bill. This submission was discussed and supported by our member elected council. I **attach** a copy of our submission to the QLRC, and I commend it to all committee members.

We note that the recommendations in the QRLC report largely aligns with the position our council undertook in its submission and we also note that these have largely transferred to the bill. However, AMA Queensland would like to highlight some notable exceptions.

In this submission to the *Termination of Pregnancy Bill 2018*, AMA Queensland will restrict feedback to these exceptions and where we feel the bill could go further in protecting patients and medical practitioners.

For other topics, such as AMA Queensland's view on gestational limits and the establishment of safe access zones, I would refer you to our submission to the QLRC.

Section 6: Termination by medical practitioner after 22 weeks

In our submission to the QLRC, our position was that a second medical practitioner, not necessarily an obstetrician, must be asked to consider the appropriateness of a termination of pregnancy post 22 weeks and must have had the opportunity consult and examine the woman before making their determination. Both medical practitioners need to consider all the circumstances and must have regard to all relevant medical circumstances ***and*** the woman's current and future physical, psychological and social circumstances. By way of example, the second practitioner could be a Geneticist if a late diagnosis of a congenital abnormality is made or by a psychiatrist in the event of the mother developing an acute psychosis.

We note in the QLRC's report they had determined that the legislation "should not require that the second medical practitioner must examine the woman, or that the consultation must occur in person." We do not agree with this determination and strongly encourage you to mandate the consultation with a second medical practitioner in the legislation. We consider that for rural and remote patients who may incur costs of travel, inconvenience and additional delay that this second consultation can be facilitated via telehealth videoconferencing facilities.

Ensuring that the second medical practitioner has had the chance to consult with a patient is critically important for the following reasons;

- It provides a safety net for both the doctor and the patient as this will demonstrate consistency in decision-making process and independent peer-review. Applied to other fields of Medicine other than O&G, this clause is also consistent with use of seeking second opinions in medico legal cases
- It also provides an inbuilt system of checks and balances to ensure that the reasons for the termination are applicable to the criteria laid out in the legislation
- It provides both the mother and the specialist an opportunity for further review of the pregnancy and the circumstances of the termination

We would therefore recommend that a provision be incorporated into the bill which requires a consulting medical practitioner to have consulted with the woman prior to making a determination on the appropriateness of the termination and that this can occur in person or through other means such as telehealth.

Section 8: Registered health practitioner with conscientious objection

As per our submission to the QLRC, the AMA Queensland position is that a doctor should "always provide medically appropriate treatment in an emergency situation, even if that treatment conflicts with the doctor's personal beliefs and values." However, we added a very important caveat to that position.

> *"… it is important for the QLRC to understand that not every medical practitioner will have the skills and training to provide an abortion, even in an emergency. The wording of Clause 8(3) in the Abortion Law Reform Act 2008 (Victoria) states that despite any conscientious objection to terminations of pregnancy, "a registered medical practitioner is under a duty to perform an abortion in an emergency where the abortion is necessary to preserve the life of the pregnant woman." This means that in an emergency, general practitioners or even ophthalmologists could technically be criminally liable for not doing something which they may not be trained for or is well outside their normal scope of practice.*
>
> *For this reason, AMA Queensland would recommend that any potential legislation should reflect that despite any conscientious objection to abortion, only a registered medical practitioner who has the necessary skills and training to safely perform a termination of pregnancy is under a duty to do so. If they do not have these skills or training, in an emergency they should be obligated to urgently refer or otherwise assist the patient to a registered medical practitioner who has these skills and training, where the termination is necessary to preserve the life of the pregnant woman."*

The QLRC Report noted this advice in paragraph 4.109. However Clause 8(4) of the *Termination of Pregnancy Bill 2018* does not seem to take this into account, stating that the section of the bill relating to conscientious objection "does not limit any duty owed by a registered health practitioner to provide a service in an emergency." This would mean that any registered medical practitioner would be under

a duty to perform a termination in an emergency, regardless of whether they have the skill and training to safely provide one.

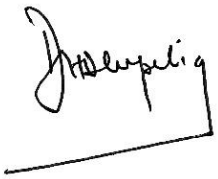
We therefore suggest the following amendment to Clause 8(4).

> *(4) This section does not limit any duty owed by a registered health practitioner who is qualified to provide a termination of pregnancy to provide a service in an emergency.*

Whilst AMA Queensland agrees that holding a conscientious objection should not limit any duty of a registered health practitioner to provide or assist in providing a termination of pregnancy, requiring a medical practitioner to perform a procedure outside of their regular scope is dangerous for the patient and is likely to have serious legal ramifications for the practitioner.

AMA Queensland thanks the committee for the opportunity to provide feedback on this bill. If you require further information or assistance in this matter, please contact Mr Leif Bremermann, Senior Policy Advisor, on 3872 2222.

Yours sincerely



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