



18th May 2018

Abortion Law Reform

FEEDBACK FROM

New Zealand College of Midwives

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The New Zealand College of Midwives is the professional organisation for midwifery. Members are employed and self-employed and collectively represent 90% of the practising midwives in this country. There are around 2,900 midwives who hold an Annual Practising Certificate (APC). These midwives provide maternity care to, on average, 60,000 women and babies each year. New Zealand has a unique and efficient maternity service model which centres care around the needs of the woman and her baby.

Midwives undertake a four year equivalent undergraduate degree to become registered. The undergraduate curriculum meets all international regulatory and education standards. Midwives are authorised prescribers in relation to their Scope of Practice as determined by the Midwifery Council.

Midwives provide an accessible and primary health care service for women in the community within a continuity of carer model as Lead Maternity Carers. Midwives can also choose to work within secondary and tertiary maternity facilities, providing essential care to women with complex maternity needs.

The College offers information, education and advice to women, midwives, district health boards, health and social service agencies and the Ministry of Health regarding midwifery and maternity issues. Midwives interface with a multitude of other health professionals and agencies to support women to achieve the optimum outcome for their pregnancies, health and wellbeing.



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Introduction

The New Zealand College of Midwives (the College) welcomes the opportunity to provide feedback on abortion law reform. We understand that the Law Commission is exploring options for treating abortion as a health issue within NZ legislation, and the College is in an appropriate position to provide commentary. Midwifery care takes place in partnership with women, and underpinning this practice philosophy is a concern for women's health, sexuality, reproduction, autonomy, and empowerment. Midwives respect and uphold women's rights to make uncoerced and fully informed decisions about their pregnancies, birth and parenthood, and this includes decisions about continuation of a pregnancy, or pregnancies.

The College recognises that the abortion laws in New Zealand are in need of urgent reform as the current situation is not only inequitable in terms of barriers to abortion access, but also it does not recognise women's bodily integrity and autonomy, nor does it consider women's health and safety. Feedback from a College member working rurally highlighted the inequity experienced by rural women due to a lack of local services, necessitating two and a half hours of travel to an appointment, and why, under this current system, these barriers, "... can cause delays, resulting in being unable to have the procedure due to the pregnancy being too far progressed."

The United Nations Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) published a list of issues for the examination of New Zealand's last report on CEDAW and requested information on measures being taken to "(a) amend the Crimes Act and (b) revise the Contraception, Sterilisation and Abortion Act 1977 in order to alleviate the onerous procedure for procuring an abortion" The CEDAW Committee also asked what steps were being taken to shift

oversight over abortion laws, policies and services from the Ministry of Justice to the Ministry of Health.¹ The eighth periodic report was submitted by the New Zealand Government in 2016 and it is this report that will be examined at the 70th session of the UN Committee in July 2018.

Therefore the College hopes this process of abortion law reform signifies significant progress towards the elimination of discrimination against women in New Zealand. The College supports the following:

1. Abortion should be removed from the Crimes Act and there should not be any statutory grounds for abortion.
2. Abortion is a health care issue between a woman and a qualified health practitioner, and abortion should be provided with the woman's informed consent, and without a certification process.
3. As a health issue, abortion should be overseen, regulated and funded through the Ministry of Health. The oversight, funding and administration of abortion provision should not be the responsibility of the Ministry of Justice.
4. Access and referral for women seeking abortion information and services should be straightforward and equitable for all women. Midwives can be a provider of referral services.
5. If new legislation maintains that a health practitioner can object to providing abortion services and providing information to women because of moral beliefs, there must be a requirement that the health practitioner makes a direct referral to a health provider who can assist the woman.

The College has provided further detailed feedback below to support this submission.

The College considers that:

- 1.0 The abortion system in New Zealand is needlessly complex and it creates conditions of inequity that affect many women, including unnecessarily long wait times for appointments, and the potential for an unacceptable increase in health risks. Abortion should be a health care issue between a woman and her chosen health practitioner.
- 2.0 Consultation with Māori, and discussion of Māori women's perspectives about abortion, including acknowledgment and respect for tikanga and a Māori health framework for all reproductive health services, is essential.

¹ Committee on the Elimination of Discrimination Against Women. (2017). List of issues in relation to the eighth periodic report of New Zealand. http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fNZL%2fQ%2f8&Lang=en
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- 3.0 The criminalisation of abortion appears to play a significant and troubling part in the stigma that surrounds women and abortions, and this may lead to the potentially dangerous marginalisation of abortion services and care, which contributes significantly to the barriers women face. Judgemental attitudes and moral arguments are inappropriate and unhelpful. As described by McCulloch and Weatherall (2017), “Treating unwanted pregnancies practically, as a medical rather than a legal or moral matter, promotes women’s sexual and reproductive health.”² The College fully supports this statement.
- 4.0 The grounds for abortion under the current system are unjustifiably restrictive and demeaning, and they do not cover the legitimate range of reasons why women are seeking abortions. Socioeconomic concerns, for example have been cited as a major issue for many women. As described by McCulloch and Weatherall, “to avoid being criminalised for terminating a pregnancy, women are instead pathologised.”³ The College considers it unacceptable that women have to be labelled as suffering from a mental health disorder to access abortion services, and we consider the term ‘severely subnormal’ an outdated and highly inappropriate term.
- 5.0 Women in New Zealand urgently require easy access to free, high quality, safe, equitable and legal abortion services, including free, easily accessible and appropriate post-abortion care and contraception. The need for these services and type of services should be determined by the individual woman. The majority of early abortion services do not need to be provided within a hospital setting. Community health facilities can provide a service and some women can also be supported to take the prescribed medication in their own homes if provided with information and support. Midwives can provide another referral service pathway which increases equitable access.
- 6.0 Mandatory counselling should not be introduced in any new legislation. However free counselling before and after abortion should be available and accessible to all women. Continuity of care is a model that, as midwives, we are very familiar with and support.
- 7.0 Informed consent and respect for women as decision makers is a necessary tenet of women’s rights and the elimination of discrimination against women. Ensuring women’s autonomy to make their own informed decisions is paramount.

² McCulloch, A., & Weatherall, A. (2017). The fragility of de facto abortion on demand in New Zealand Aotearoa. *Feminism and Psychology*, 27(1):92-100.

³ Ibid, p. 94.

- 8.0 Simplifying the process of accessing legal abortions will reduce, and hopefully entirely eliminate, the need for women to resort to unsafe abortions.
- 9.0 Late gestation abortion is a complex issue for all concerned and the College notes that this aspect of abortion is the one most likely to be exploited and sensationalised by the media, and cause division amongst the general public. In reality, statistics show late abortions after twenty weeks are uncommon, and around 0.6% of the total abortions.⁴ The College considers that all medical circumstances including the woman's current and future physical and psychological health and social circumstances need consideration.
- 10.0 It is a responsibility of the appropriate health professionals to provide women with the relevant information, evidence based care and practice. This includes education on sexual and reproductive health rights. Conscientious objection does not absolve health practitioners of the obligation to provide accurate, timely, and up to date information about abortion services, and timely referral to those services.
- 11.0 There is a need to examine further the issue of domestic violence (DV) and timely and confidential access to abortion and contraceptive services. The College considers that the midwifery voice is an integral part of any discussion concerning abortion services that aim to support women who are in situations of domestic violence, as midwives screen for DV and support women in these circumstances in a myriad of ways.
- 12.0 The exclusion of sexual violation/rape as independent grounds for abortion has been of ongoing concern for women. Women who have a controlling or violent partner are likely to have restricted agency over their sexual activity and contraceptive usage, and this needs to be taken into account.
- 13.0 Removing oversight of abortion laws, policies and services from the Ministry of Justice to the Ministry of Health will support the development of quality, women-centred systems that include abortion services in reproductive healthcare. This will reduce some issues of discrimination against women.
- 14.0 Feedback from some College members indicates that midwives would be interested in providing more support for women in terms of prescribing emergency contraception as required.

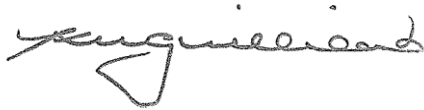
⁴ Report of the Abortion Supervisory Committee. (2017).
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Conclusion

The College considers that it is time to make abortion a reproductive health issue, rather than a criminal issue, to address women's rights, their wellbeing, autonomy, reduction of stigma, equitable access, improved services and health and safety issues.

Thank you for your work on abortion law reform.

Yours sincerely

A handwritten signature in black ink, appearing to read 'K. Guilliland', with a stylized flourish at the end.

Karen Guilliland

Chief Executive
New Zealand College of Midwives