

Aotearoa New Zealand Association of Social Workers

Te Roopu Tauwhiro i Aotearoa

Submission to the Abortion Law Select Committee

On

Abortion Legislation Bill



September 2019

Contents

Aotearoa New Zealand Association of Social Workers	3
Social Worker Registration	4
Social Workers are Health Practitioners	4
How the information was gathered.....	4
Introduction	5
Decriminalisation of Abortion.....	5
Safe Zones / Prohibited Behaviour	5
Social Workers as Counsellors	6
Access to Counselling.....	6
Conscientious Objection	7
Privacy Considerations.....	8
Other Considerations	8
Areas of Concern.....	8

Submission on the Abortion Legislation Bill

Aotearoa New Zealand Association of Social Workers

Aotearoa New Zealand Association of Social Workers (ANZASW) is the professional body for a national collective of more than 3,300 social workers, who have day-to-day involvement with the most vulnerable people in our society. Our work is guided by a Code of Ethics that is aligned with the International Federation of Social Workers (IFSW) Statement of Ethical Principles.

Members work across government and non-government settings including community organisations, iwi agencies, youth justice, child protection, mental health, addictions, disability and private practice. We are involved in research, training, education, professional development, competency assessment, data gathering, risk assessment, structural analysis, interagency protocols and the improvement of social policy.

ANZASW members are responding to the consequences of poverty on an almost daily basis.

The international definition of social work, adopted by ANZASW, mandates the profession to engage in advocacy for social justice and human rights:

“Social work is a practice-based profession and an academic discipline that promotes social change and development, social cohesion, and the empowerment and liberation of people. Principles of social justice, human rights, collective responsibility and respect for diversities are central to social work. Underpinned by theories of social work, social sciences, humanities and indigenous knowledge, social work engages people and structures to address life challenges and enhance wellbeing.”

Social work is founded on principles of human rights and social justice and, in Aotearoa New Zealand, is guided by the Treaty of Waitangi and respects the equality, worth and dignity of all people. In accordance with the March 2012 IFSW Global Agenda¹ “we commit ourselves to supporting influencing and enabling structures and systems that positively address the root causes of oppression and inequality.

“We commit ourselves wholeheartedly and urgently to work together with people who use services and with others who share our objectives and aspirations, to create a more socially-just and fair world. We believe the overarching principles of social work are respect for the inherent worth and dignity of human beings, doing no harm, respect for diversity and upholding human rights and social justice.”²

¹ International Federation of Social Workers, International Association of Schools of Social Work and International Council on Social Welfare (2012).

² ‘The Global Agenda for Social Work and Social Development Commitment to Action’. Available at isw.sagepub.com (accessed 13 June 2012)

Our mission is to enable people to develop their full potential; our skillset is problem solving and facilitation of positive change in individuals, organisations, whānau and communities. We recognise people in our society can be both agents of change and victims of factors beyond their control. As a profession, we strive to alleviate poverty, foster social inclusion and liberate those who are vulnerable or oppressed. Our interventions involve the development of coping strategies, one-on-one counselling and therapy, family and group work, agency administration, community organisation, social action and social change and helping people to access services, resources and support systems within their community.

Social workers respond to crises and emergencies along with the personal or social problems that arise from experience of barriers, inequities and injustices within our society. We are also involved in statutory intervention when vulnerable children and adults are at risk of harm.

Social Worker Registration

Social Workers are currently subject to a voluntary statutory regulation scheme under the provisions of the Social Workers Registration Act 2003. Under this scheme all District Health Boards require social workers to be registered with the Social Workers Registration Board.

The Social Workers Registration Legislation Act gained Royal Assent 27 February 2019 making registration of all social workers mandatory from 27 February 2021.

The Act requires that to practice or identify as a social worker from 27 February 2021 the person must be:

- Registered as a social worker
- Practice within the terms of their individual scope of practice
- Hold a current practicing certificate

Social Workers are Health Practitioners

A registered social worker is deemed to be a health practitioner. The Health & Disability Commissioners Act 1994 No 88 in Section (2)(1) defines 'Authority' as having the same meaning as in Section 5 of the Health Practitioners Competence Assurance Act 2003; and includes the Social Workers Registration Board established by Section 97 of the Social Workers Registration Act 2003. In section 2(1)(iv) 'Health Practitioner' includes social worker within the meaning of the Social Workers Registration Act 2003.

How the information was gathered

Members were invited to make contributions to the ANZASW Submission to the Abortion Legislation Committee. Thirteen members and one workplace group provided information. A further six members developed the submission to the Law Commission on Abortion Law in 2018.

Introduction

It is recognised that abortion is a sensitive issue, therefore it is recognised that there will be a diversity of opinion within the ANZASW membership.

It is recognised that some members may hold a view that an unborn child is human and therefore abortion promotes the mother's rights over the unborn child.

It is also recognised that this legislation primarily seeks to decriminalise abortion rather than promote it per se, and for this reason the Bill should be supported.

Allowing women to make a self-determining choice along with the provisions for conscientious objection creates an environment where women's individual choices can be accommodated and respected.

Three members contributing to the submission either expressed concern about aspects of the Bill or opposed the Bill.

Decriminalisation of Abortion

The majority of the members contributing to this submission were in support of abortion being decriminalised and treated as a health issue.

The notion of self-determination for women was supported as was the requirement that women must give informed consent to the procedure.

The removal of a statutory test for abortions under 20 weeks was supported by the majority of the contributors. There were several opinions expressed about the 'test' requirements for abortions over 20 weeks.

- Support for the requirement to consult with a qualified health practitioner after 20 weeks – the majority view
- There should be no test in relation to the length of gestation
- The requirement to consult with one health practitioner did not provide sufficient safeguards for neither the woman nor the health practitioner.

Maintaining criminal offenses for unqualified people attempting to procure an abortion or supply the means for procuring an abortion are supported.

Safe Zones / Prohibited Behaviour

The contributors supporting abortion law reform strongly supported the introduction of prohibited behaviour. There was also support for the regulating power to establish safe zones around abortion facilities when required to provide protection for women seeking an abortion and for people providing abortion services.

One contributor suggested that the fine to \$1,000 was not commensurate with the level of harm those opposing abortion can inflict on women.

Social Workers as Counsellors

Social workers providing counselling tend to do so from a clinical social work practice perspective which can be described in the following way:

A clinical social worker draws on evidence-based theories and methods of prevention, assessment and treatment with a special focus on psychosocial and behavioural problems and disorders.

The practice of clinical social work is informed by the broader concepts intrinsic to social work practice such as enhancing the wellbeing of persons in their environment, inclusive of principles of social justice and human rights, person-centred and strengths focused interventions.

Further to this, clinical social work:

- *Requires complex decision-making, systemic analysis and advanced critical thinking skills gained through supervised practice, continuous improvement and focused professional development (which may include postgraduate education)*
- *Engages directly with individuals, couples, families and groups focused on complex issues impacting on individual and family functioning and their relationships including, but not limited to, mental health, parenting, separation, adolescence, addiction, grief/loss and trauma.*

Approaching the range of reproductive supports for women from a clinical social work perspective provides an integrated and wholistic service for the woman in the context of her environment.

Access to Counselling

The majority of contributors agreed that women must be made aware of the availability of access to clinical social work / counselling both pre and post procedure. It was agreed that the requirement to undertake counselling should not be a mandatory requirement as there should be no assumption that all women seeking abortion need counselling, or that they are will experience poor mental health as a result of an unwanted pregnancy. Neither should it be assumed that women who have an abortion will suffer mental unwellness as a result.

There was strong support for this service to be free and for social workers to be attached to treatment providers.

Section 13(1) needs to be strengthened to ensure that that any person providing psychosocial support (“counselling”) for women making decisions in relation to pregnancy and abortion must have a recognised qualification such as social work, psychology or counselling and be registered with their regulatory authority or in the case of counselling with their professional body.

With modification to align with the mandatory registration requirements in the Social Workers Registration Act Standard 8.2.5 in the 2018 Standards of Care could provide a

useful framework for determining the required qualifications and accountability mechanisms and ensuring competence of providers of support services.

Professionals providing counselling in abortion care should:

- ~~Hold a relevant qualification or have equivalent training in abortion counselling~~

This requirement becomes redundant as to register a social worker must meet qualification requirements, currently a 4-year SWRB recognised degree.

The NZAC requirements for provisional membership are: Currently the minimum requirement to become a Provisional Member of NZAC is a Level 7 Bachelors course with 200 hours of supervised clinical practice. A further 300 hours supervised clinical practice may lead to full membership³

- *Be registered members of their profession [or be members of an appropriate self-regulating professional association]:*
 - *Social workers must be registered with the Social Workers Registration Board should and hold an annual practicing certificate and valid competence certificate*
 - *Counsellors ~~should~~ must be members of The New Zealand Association of Counsellors Te Roopu Kaiwhiriwhiri o Aotearoa*
- *Be undertaking regular professional development in abortion counselling*
- *Be doing regular pregnancy counselling for women considering abortion [and post abortion]*
- *Have supervision and peer review*
 - *Clinical supervision is a formal and disciplined working alliance which is generally between a more experienced and a less experienced abortion provider (social worker, counsellor, nurse or doctor), in which the supervisee's clinical work is reviewed and reflected upon, with the aims of: improving the supervisee's work with clients, ensuring client welfare, supporting the supervisee in relation to their work, and supporting the supervisee's professional development*

Conscientious Objection

Contributors supporting the Bill strongly supported the inclusion of the requirement that health professionals opting out of providing abortion services on conscience must disclose that at the earliest opportunity and that they must provide information about how to access the contact details of an alternative provider able to provide the requested services.

³ Accessed from: http://www.nzac.org.nz/want_to_be_a_counsellor.cfm

Privacy Considerations

Treating abortion as a health matter means that the woman's NHI number, the number used to uniquely identify her along with demographic and other details that sit behind her address, will not only be used in the clinical record and within contracted abortion services providers' reporting requirements to DHBs as occurs now, but may be used in unencrypted or encrypted form for other reporting and data sharing purposes. Irrespective of whether the NHI is used in an encrypted or unencrypted form, the woman is still potentially identifiable and her data from other health services easily linked. While there may be benefits, there are also risks, especially to personal privacy. There does not appear to be any discussion that spells out how this will affect the following operational matter:

The current ASC legislation (and ASC Form 4) states that no such record to the Abortion Supervisory Council shall give the name or address of the patient. It is understood that the NHI number could not be used as an identifier outside of the health system. We expect this privacy protection will still apply to data that the Director General of Health receives to compile national annual data reports.

Other Considerations

Contributors identified that lack of knowledge about and access to quality contraception information were at times contributing factors behind the need to seek an abortion. Another factor was affordability of the means of contraception. Addressing these issues were seen as a mechanism for reducing the demand for abortion.

It was also noted that abortion services must be able to provide ethnically and culturally appropriate supports and services.

Areas of Concern

Areas of concern identified by the members who contributed include:

- Lack of protection for women who are coerced into having an abortion
- Lack of legal protection when an abortion is sought for sex selection
- Lack of protection when an abortion is sought for reason of disability

One contributor expressed a concern that "abortion on demand" created a situation where the choice of the woman took precedence over that of the vulnerable unborn life. The view was also expressed that the Bill potentially opened up a culture of expedience and the commodification of children.