

18 May 2018

Abortion Law Reform
Law Commission
PO Box 2590
Wellington 6140

By email: alr@lawcom.govt.nz

Abortion Law Reform

Dear Sir / Madam

The New Zealand Medical Association (NZMA) wishes to provide input regarding possible reforms to New Zealand's abortion laws. The NZMA is New Zealand's largest medical organisation, with more than 5,000 members from all areas of medicine. The NZMA aims to provide leadership of the medical profession, and to promote professional unity and values, and the health of all New Zealanders.

We note that the Law Commission is advising the Government on how the law could treat abortion as a health issue. Specifically, the Commission will be providing advice on the criminal aspects of abortion law, the grounds for abortion and the process for receiving abortion services.

1. The NZMA strongly agrees that abortion should be treated as a health issue and we welcome the move to ensure the legislative framework aligns with and supports that principle. It is our preference however that abortion continues to be a regulated healthcare procedure both in terms of eligibility and the delivery of services.
2. The NZMA's foremost concern is that of equity in access to abortion services and support services, and this must be central to any reform. Access to fully funded counselling services is crucially important for women considering abortion and, while we cannot require women to undergo counselling, counselling should be expressly part of the abortion services framework. Doctors need to have confidence that their patients are not going to face barriers in seeking counselling and that the process to access counselling, both before and after termination, is smooth, timely and actively facilitated.
3. Access to abortion facilities must also be equitable. Location and capacity of current services is not meeting needs and while we support a licensing regime there may be some adjustments that can be made to the licensing process that would increase the number of facilities without compromising care.

4. With regard to the specific grounds for abortion, it is our view that eligibility should continue to be specified in statute. The current grounds are generally considered to be working well although we agree some change in language is needed. For example, there must be a more appropriate way to refer to someone with significant psychological, cognitive/intellectual or physical impairment, than the woman is “severely subnormal”.

5. The process involved in accessing abortion services is an area where we feel there could be some improvements. In particular, the need for two certifying consultants is questioned as it is unnecessary from a clinical decision-making perspective and can contribute to issues of inequitable access. We do however that consider that a doctor should be the referrer, confirming that the required eligibility grounds are met. We also support a stepped process whereby there are decision point opportunities for the patient along the way.

6. The NZMA strongly supports the retention of the existing provisions of conscientious objection.

7. We note that the Crimes Act 1961 contains provisions designed to protect medical practitioners from criminal responsibility when performing surgical operations, with reasonable care and for the benefit of the patient. The current provisions for abortion in the Crimes Act also, in part, serve this purpose. We believe it would therefore be appropriate to have similar reference to abortion in the Crimes Act to ensure those providing abortion services have the same legal protection and we ask that the Commission explore this aspect.

8. We have not at this time explored the matter of offences under any new regulatory framework and how they would be dealt with as civil offences, as opposed to criminal, but we may wish to do so during the legislative process.

9. Finally, while funding considerations are likely to be out of scope at this stage of the review we do wish to signal that changes to process may result in changes to funding mechanisms and quantum. For example, removing the need for two certifying consultants would result in a funding reduction for some abortion services which may need to be rebalanced elsewhere.

We hope this feedback is helpful and we look forward to continued engagement as the Commission’s work progresses and during any subsequent legislative process.

Yours sincerely



Dr Kate Baddock
NZMA Chair