# Midwives Association /Midwives for Choice

# Joint Position Paper on Termination of Pregnancy Bill

# Submission, Joint Oireachtas Health Committee

**Background**

The World Health Organisation (WHO 2014) identifies unsafe abortion as one of the five major causes of maternal mortality. Global, regional and national agencies have set goals and guidance for reducing high maternal mortality in general and abortion-related maternal mortality and morbidity in particular. We know from the statistics compiled from the UK Department of Health prior to the referendum in May that a total of **168,705** women travelled from Ireland to the UK for abortions between 1980 to 2016. This figure represents a staggering dearth of appropriate care for Irish women within the Irish health system, and indeed an absence of care which endangered their very well-being.

The proposed legislation must ensure in scrupulous detail that the needs of women seeking an abortion are fully and sensitively met.

As midwives with the professional duty of care for women and all their reproductive health needs, we have prepared this position paper on behalf of the Midwives Association and Midwives for Choice.

One of the core principles for all midwives underpinning the Nursing & Midwifery Board (NMBI) Code & Practice Standards (2014) the philosophy is to protect and promote the safety and autonomy of the woman, respecting her experiences, choices, priorities, beliefs and values. Midwives have a responsibility to respect each person's basic human right to self-determination. The International Confederation of Midwives (its position statement (2014) states that midwives recognise the woman's right to decide for herself and that the midwife must provide information, counselling and services according to the woman's needs, while further recognising the emotional, psychological and social support which may be needed by the woman responding appropriately to the woman at all times. The UK Royal College of Midwives (RCM) in its position statement on abortion (2016), outline the belief that every woman should have the right to exercise choice over all aspects of maternity care including whether to have a baby or not. The RCM states that it is within a midwife's scope of practice to work with women who are considering termination of pregnancy and that midwives should be prepared to care for women before and after termination in a maternity unit under obstetric care.

In relation to conscientious objection, principle two of the NMBI 'Professional Responsibility and Accountability: Standards of Conduct' outlines that those who object on religious or moral grounds must inform their employer and, if appropriate, must also inform the patient as soon as they can. The guidance outlines that if the midwife cannot meet the patient's needs, they should, if appropriate, talk to the patient about other care arrangements. Importantly the guidance states that in the event of an emergency where the patient's life is at risk, the midwife must provide care. The RCM (2016) indicates that conscientious objection should only apply to direct involvement in the procedure of terminating pregnancy.

**Areas of concern for midwives within the proposed legislation**

Our main area of concern would emanate from Head 7 'Early pregnancy'

*7.(1) A termination of pregnancy may be carried out in accordance with this Head where a medical practitioner certifies that, in his or her reasonable opinion formed in good faith, the pregnancy concerned has not exceeded 12 weeks of pregnancy.*

**Concern:**

- It is unclear to us why midwives as qualified healthcare professionals within whose scope of practice it is to confirm pregnancy are excluded from certifying the pregnancy. (NMBI 2015). The inclusion of midwives might lessen the burden on the service in relation to +/- need to see a medical practitioner on multiple occasions in respect of certification, termination and aftercare.
- Insofar as the legal framework is concerned**,** there appears to be an omission of a midwife's vital role within this 'early pregnancy' timeframe to support, educate**,** and advocate for women seeking a termination.
- The absence in the proposed legislation of any discussion regarding the possible requirement of 'all midwives' including those of conscientious objection**,** to care for women pre and post-termination in a maternity unit while under obstetric care. (RCM 2016)
- Confirmation that Head 7, does not exclude other qualified healthcare professionals, including midwives, to carry out abortion procedures/services. This would be in line with best international practice; the International Confederation of Midwives states that authorised and well-educated midwives can provide competent and safe abortion-related services. In consideration of this**,** some governments have modified their laws and policies to empower midwives to provide comprehensive abortion services, (ICM, 2014).

**Other areas of concern**

- **Inclusivity of language:** In relation to language**,** non-binary, intersex**,** and trans people can become pregnant so 'pregnant person' would be more inclusive than 'pregnant woman'.
- **Decriminalisation:** Criminalisation of abortion should be removed.
- **Waiting Period:** We believe that the waiting period of 72 hours should be removed because it is an ambiguous term: when does the waiting period begin, e.g. at the time of contact with a medical practitioner or at the time of contacting a helpline? This would seem an unnecessary constraint with the potential to cause undue stress and anxiety to those involved.
- **Consent:** Under the 8th Amendment, some women were denied the right to refuse treatment where that refusal would place the foetus' life at risk. They could also be denied certain health-preserving treatments, or birthing options in the interests of the foetus. This law was not especially clear prior to the referendum. We are only aware of one published judgment; in *HSE v. B*. It is important that the law here is clarified, not only in the context of childbirth, but in the context of s. 10 of the Health (Termination of Pregnancy) Bill. The National Consent Policy and the National Maternity Strategy should be revised, to clarify the scope of a pregnant woman's autonomy under the law.

It is important to note that this position paper mentions 'Midwife' throughout: some midwives involved are also nurses; however not all midwives are nurses. The term midwife is inclusive of midwives working in maternity units, GP practice, family planning and fertility and those who are either self-employed or who are subcontracted by the HSE to carry out specific services e.g. to provide a package of maternity care throughout pregnancy, labour and the puerperium to those wishing to give birth at home.

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https://www.nmbi.ie/Standards-Guidance/Midwives-Standards/Code-Practice-Standards

https://lawyers4choice.files.wordpress.com/2018/08/position-paper-1.pdf

https://internationalmidwives.org/assets/uploads/documents/Position%20Statements%20-%20English/Reviewed%20PS%20in%202014/PS2008_011%20V2014%20Midwives'%20provision%20of%20abortion%20related%20services%20ENG.pdf

https://www.rcm.org.uk/sites/default/files/RCM%20Abortion%20Statement.pdf

https://lawyers4choice.ie/2018/08/15/position-paper-on-the-updated-general-scheme-of-the-health-regulation-of-termination-of-pregnancy-bill-2018/