



Ms Tracy Martin
National President
Australian College of Midwives
PO Box 87
Deakin West ACT 2600

22nd September 2011

Dear Ms Martin and ACM Board Members,

Homebirth Australia (HBA) is the peak national body for Homebirth in Australia representing our membership of both consumers and midwives. For over thirty years HBA has worked to support consumers and midwives who choose homebirth by increasing awareness, providing information and support, and advocating for the rights of parents to choose how, where and with whom they give birth.

Homebirth Australia's submission regarding the *Interim Position Statement on Homebirth* and the *Interim Guidance for privately practising midwives providing midwifery care for a planned homebirth* is attached.

Homebirth Australia welcomes the opportunity to provide "comments" regarding these documents. We would like to take this opportunity to express our dismay at the consultation process that has taken place, thus far, and the lack of due regard for the democratic processes resulting in midwives being reported with citations from the *Interim Position Statement on Homebirth* before the consultation process has concluded and the Statement has been formally endorsed.

Given the far-reaching and already apparent negative impacts this Position Statement is having on the birthing rights of women and the practice of midwives who support women to birth at home, we do not believe adequate and genuine engagement with key stakeholders has occurred nor sufficient consideration has been given to the Statements' development.

We understand that a review panel is being established to meet on Saturday 8th October to review and revise the Position Statement. As the peak representative body for homebirth consumers and midwives, and for the reasons outlined above, we would like to respectfully request that a Homebirth Australia committee member is offered a position on the Review Panel.

We believe it is imperative that the branch representatives on the review panel have been, or are, privately practising midwives. In order for the Statements in question

to become workable documents that translate from policy rhetoric to sound midwifery practice, the midwives they are seeking to guide, must be instrumental in their drafting. The development or review of any policy must involve those for whom the policy is written.

Given the number of submissions that we are aware the College has received regarding the Statements we do question if adequate time has been allowed for careful compilation and consideration of the submissions by the Review Panel (15 days) prior to the Review Panel Meeting on 8th October.

Homebirth Australia is keen to work together, with the Australian College of Midwives and others to ensure homebirth is a safe and readily available birthing option for Australian women.

If you require any further information or clarification please contact Chris Wrightson on 0414 812 144 or at homebirthaustralia@gmail.com

Your sincerely,

A handwritten signature in black ink that reads "CWrightson". The signature is written in a cursive, slightly slanted style.

Chris Wrightson
Secretary
Homebirth Australia

Introduction

*“Women have a right to decide where they wish to birth their baby.
Women have a right to receive the best possible care given the choices that they
make.”ⁱ*

Philosophy: Homebirth Position Statement 2009, ACM

A Homebirth Position Statement was developed with key stakeholders and the Australian College of Midwives (ACM) in October 2009. This document was developed together and drafted in a spirit of consensus. It recognised women’s rights to self-determination (including place of birth, informed consent and right of refusal). The 2009 Position Statement clearly respects and supports midwives providing homebirth care in both private and public models and does not differentiate between them. It is a document midwives and women could refer to support their choices and practice. (See attachment for a copy of the 2009 Homebirth Position Statement).

The Statement before us now presents a completely different approach to the regulation of homebirth. The *Interim Position Statement and Interim Guidance for Privately Practising Midwives* has taken the focus away from the rights of the woman and placed it squarely on the regulatory environment. It does not recognise the woman’s common law rights to informed consent and informed refusal and her need for continuity of care, nor does it recognise the midwife’s ethical obligations. It presents an unworkable framework, which will reduce the safety of homebirth in Australia.

Homebirth Australia’s major concerns with the Statements are:

Lack of a genuine recognition of a woman’s right to choose where she gives birth

Women do not make the choice to have a planned homebirth without becoming fully informed of the benefits and risks of both hospital and homebirth. The woman and their families arrive at the decision to birth at home after much deliberation, research and thought about what is best for their babies and for them.

Contraindications for homebirth

The list of contraindications for homebirth ignores what we know, that many women will continue to choose to birth at home who fit into these risk profile categories. And with good reason, Vaginal Birth After Caesarean (VBAC) success rates for women choosing home as their place of birth in Australia are around 95% as compared to in hospital where success rates are as low as 6.7%ⁱⁱ The Position Statement must recognise this and explicitly respect a woman’s right to choose, and her midwife’s right to continue to provide care for her. A midwife cannot be placed in a position where she is forced by her own professional body to abandon the care of a woman if she and her family make their own well-informed decision to birth at home. These women will

be left without a care-provider and that is completely unacceptable.

Mandatory Consultation with an Obstetrician

Similarly, the issues identified as “B” or “C” and thus requiring “consultation with an Obstetrician prior to proceeding with a planned homebirth” includes such things as “mild asthma” - for which “Consultation is mandatory for the midwife providing care” (p2). The midwife’s practice is already governed by the *National Midwifery Guidelines for Consultation and Referral*.

In an already onerous and complex regulatory environment, the addition of another paper providing ‘guidance’ seems superfluous and counterproductive. Given the problems encountered thus far for midwives attempting to enter ‘collaborative arrangements’ with obstetricians and the lack of access to an obstetrician for many women in Australia due to geographical reasons, this clause is simply unworkable.

We refer you to the *National Guidance on Collaborative Maternity Care* commissioned by the Department of Health and Ageing and released in 2010 from the National Health and Medical Research Council (NHMRC)ⁱⁱⁱ. In it’s discussion of collaboration this document states:

*A woman decides who she involves in this decision-making process, be it a health professional, partner, doula, her extended family, friends or community, and should be free to consider their advice **without being pressured, coerced, induced or forced into care that is not what she desires** (McLean and Petersen 1996).*

***Women have the right to decline care or advice if they choose, or to withdraw consent at any time. Therefore, if a woman declines care or advice based on the information provided, her choice must be respected** (UNESCO 2005). **Importantly, women should not be ‘abandoned’ because of their choice** (FPA Health and Read 2006, Faunce 2008; NHMRC consultations 2009).*

The Interim Homebirth Position Statement and associated Guidelines are in direct conflict with the recommendations in the *National Guidance on Collaborative Maternity Care* as they encourage midwives to abandon the care of a woman who makes their own choices and declines care/advice, and they enforce mandatory consultations with Obstetricians.

A family chooses care with a private midwife because they want a midwife as their lead care provider. They have chosen midwifery care as they know a midwife is the gold standard in maternity care. They also want consultation and referral to other health professionals where appropriate - but the decision about this must rest with the woman and her family.

To force a women into obstetric hospital based care against her will is a breach of the common law rights of a woman and established case law including *St George’s Healthcare NHS Trust v S* (1998) 44 BMLR 160 (CA) UK and *Re MB* (1997) 38 BMLR 175 (Court of Appeal) UK. In this case it was stated:

The law is, in our judgment, clear that a competent woman who has the capacity to decide may, for religious reasons, other reasons, or for no reasons at all, chose not to have medical intervention, even though, as we have already stated, the consequence may be the death or serious handicap of the child she bears or her own death.

Women must not be forced into hospital based obstetric care against their will. This is a breach of a woman's right to make her own informed decisions about her health care and breaches the NHMRC's *National Guidance on Collaborative Maternity Care*.

Mandatory obstetric consultations must be removed from the Interim Homebirth Position Statement and associated Guidelines.

Homebirth Australia recommends that there be a requirement for it to be mandatory for a midwife to advise the woman and her family about all risks and benefits involved in decisions about the woman's care. The woman must be fully informed and the ultimate decision about where to give birth must remain with her.

Midwife's right to provide care in pregnancy, labour, birth and post-partum without regulatory or legal consequences for the midwife

Over recent months there has been significant concern and anxiety amongst midwives, women and their families, about their right to make informed and autonomous decisions during pregnancy, labour, birth and post-partum. It has come to a point where this must be formally addressed in the ACM Guidelines in order to protect both the midwife, the woman and her family, recognising their right to make their own informed choices. This is essential to create a safe homebirthing environment in Australia.

There will always be a proportion of Australian women who choose to birth at home, regardless of their risk status, and we must work to ensure that homebirth is kept as safe as possible, and their rights are respected as equally as women who choose to birth in hospital. Our concern is for the safety of mothers and babies who could be left without a care provider, as well as for the midwife who feels an ethical responsibility and duty to provide their care.

With extremely high intervention rates in hospital, many women are afraid to birth in hospitals and believe their only chance at natural childbirth is at home. If it becomes impossible for registered, highly skilled midwives to care for these women, many will feel they have no option other than to birth unattended or will choose unregistered birth attendants. These Guidelines unintentionally promote this practice, which is directly contrary to the World Health Organisation's objective of having a skilled attendant at every birth.

We ask that the College urgently act to protect the rights of women to birth at home and the rights of its members to provide care for them. Homebirth Australia are extremely concerned that these Guidelines will result in unnecessary deaths of babies and women, and may also result in midwives losing their registration or facing legal action if they provide care for women who continue to choose to birth at

home if they are classified as high risk. This is an absurd situation in a modern democracy.

Legal implications

Over the coming years, the impacts of the ACM Homebirth policy will become apparent if it is not modified to ensure private midwives can continue to provide care for all Australian women who make an informed choice to birth at home. The ACM Interim Homebirth policy is forcing midwives to do what is essentially illegal by insisting on treating women against their will. If the point of the ACM Guidelines is to improve safety, then in its current format it is going to be counter-productive. There will always be a core group of women who will continue to birth at home regardless of their designated 'risk profile.' The College is asking their members who are privately practising midwives to make impossible choices about whether to abandon a woman's care or force medical treatment upon their clients. Compliance with the ACM Interim Homebirth Position Statement and associated Guidelines in their current format will result in midwives acting illegally as a direct result of ACM policy.

We thank you for the opportunity to provide feedback on these documents and look forward to further consultation on their development.

ⁱ Homebirth Position Statement (2009), *Midwifery News Summer 2009* p10

ⁱⁱ Statistics from MIPPs and NSW Mothers and Babies Report 2008

ⁱⁱⁱ NHMRC (National Health and Medical Research Council) (2010). *National Guidance on Collaborative Maternity Care*, NHMRC, Canberra.