

Oireachtas Joint Committee on Health

HEALTH AND SOCIAL CARE PROFESSIONALS (AMENDMENT) BILL 2016

Detailed Scrutiny

Opening statement of Brendan Howlin TD

**AGREED APPROACH IN TACKLING ROGUE CRISIS PREGNANCY
'COUNSELLORS'**

30th March 2017, 9:00 am

I am grateful to the Committee for inviting me to make a statement. Members will recall that this initiative was taken in order to tackle a single but, I believe, important issue.

That is the extent to which rogue counsellors and rogue agencies are, to put it bluntly, lying to women with crisis pregnancies.

Some of these agencies have been operating, on and off, for more than a decade.

Undercover journalism has disclosed the extent to which their so-called counselling involves lies, deceit and sometimes grotesque mistruths. Women in crisis pregnancy situations are being told, for example, that abortion increases a woman's risk of breast cancer or that women who have had abortions will later abuse or neglect any children they might have.

My starting point is that it is no longer tenable to stand over a situation in which dieticians and opticians must be regulated before they can offer any service to the public but those counselling women in vulnerable situations face no requirement to register or be regulated at all.

So, in the belief that new legislation is needed to regulate this area, we chose the Health and Social Care Professionals Act as the vehicle for our proposed reform. It is the vehicle best suited to deal with the elimination of rogue counselling agencies from the spectrum.

That Act applies to the newer health and social care professions, outside the traditional core sectors of medicine and nursing. The Act establishes registration boards for those designated professions, it protects the use of the titles of those professions and it provides for the resolution of complaints relating to fitness to practice.

We recognised from the outset that there might be practical difficulties in applying this Act to crisis pregnancy counsellors. The Bill was accepted by the Government and by the Dáil at second stage. I have discussed it several times with the Minister for Health and we have had ongoing engagement with his officials.

I acknowledge and appreciate that the Minister is anxious to co-operate on the Bill and to accommodate what he agrees is a much-needed reform. I acknowledge also the co-operative approach of the Department's officials.

As we understood from the start the Health and Social Care Professionals Act applies automatically to certain professions directly named in the legislation itself. These include, for example, chiropractors, occupational therapists, physiotherapists and psychologists.

These professions already have what we might call the infrastructure of a recognised and regulated profession, namely, a defined scope of practice, a representative professional body, defined routes of entry and recognised qualifications.

The Act then goes on to enable the Minister by regulation to designate additional health and social care professions. He does so by reference to the stipulated factors. In other words, the Minister assesses whether the profession has in place the infrastructure to enable it to be regulated.

Normally speaking, the path towards recognition and designation may take months, if not years, involving consultation, assessment, the satisfying of preconditions and so on.

But that is not the end of the matter. Designation of a profession as suitable to be covered by the Act is just the start of a process that will only lead to full regulation some months later.

For the reasons you will have spelled out to you, the Minister's approach is to designate counsellors generally, rather than trying to single out pregnancy counsellors. I don't oppose that approach.

I will leave it to the officials to spell out how much progress they have made to date on this project – I understand the Houses may have draft regulations to consider and approve before the summer recess – and what work will then remain to be done.

But I do appreciate that this is inevitably a methodical process.

I think part of our joint function is to ensure that progress is maintained on this, as a priority.

I want to remind the members of section 4 (4) (e) of the 2005 Act. It states that, in deciding whether it is appropriate and in the public interest that a particular health or social care profession be designated, regard must be had to "the degree of risk to the health, safety or welfare of the public from incompetent, unethical or impaired practice of the profession".

That should be our overriding consideration. Giving incompetent, unethical or impaired advice or counselling to vulnerable women with crisis pregnancies represents an unacceptable risk to their health, safety and welfare.

It is for this reason that immediate action is warranted. I am glad that the Minister agrees and that he has engaged positively on this issue.

The progress achieved to date is not exactly along the lines proposed in the Bill but that is not the material point. What is important is whether and to what extent we are making real progress – and whether we can sustain that progress and see this through to full resolution.

There is a role for Government and Opposition and for Oireachtas committees in all of this, and for the Department. I do not want to take up more of the Committee's time than is necessary because I believe it could more usefully be spent in listening to a presentation by those officials as they map out the steps and timelines for a possible way forward.

There is one other aspect I should mention. It relates to another Act that I had some involvement with when I served as Minister for Health a number of years ago. That is the Regulation of Information (Services outside the State for Termination of Pregnancies) Act 1995.

This Act arose from the Fourteenth Amendment to the Constitution, which enshrines in the Constitution that Article 40.3.3° cannot be used to limit the freedom to receive and impart information about services available in another state, subject to such conditions as may be laid down by law.

The 1995 Act lays down those specific conditions. It seeks to balance the constitutional rights and freedoms bearing on the question of abortion information.

The legislation seeks to ensure that any doctor or advice agency that provides abortion information to pregnant women does so only in the context of full counselling on all of the available options, without any advocacy or promotion of abortion.

Section 5 of the Act applies to anyone who engages in the activity of giving information, advice or counselling to individual members of the public with regard to pregnancy. The section states that where such a person is requested by a pregnant woman to give information, advice or counselling on her particular circumstances, it is not lawful for that person to give what is called "Act information" to the woman unless the information, counselling and advice are "truthful and objective".

But it is important to bear in mind that the scope of the 1995 Act is confined to what it calls "Act information". This is defined as information likely to be required by women in availing themselves of pregnancy termination services.

In other words, "Act information" relates to that information which helps somebody have an abortion – providing the name, address and telephone number of a foreign abortion service, and so on.

The Act does not apply to more general information, such as information about the nature of abortion.

So, if a rogue agency, which seeks to restrict access to abortion, provides women with information that is objectively factually untruthful, it can do so without breaking the 1995 Act.

I understand that the Department is considering the possibility, in the context of a designated and regulated counselling profession, of amending and perhaps broadening the terms of the 1995 Act. Again, I will leave it to the officials to spell out what options are under consideration.

I will not take up any more of your time. It may be unusual for the mover of a Bill to come into committee and not urge its immediate passage.

But I know that you will want to hear from the Department.

If you are satisfied that real and substantial progress, in accordance with a realistic timeframe, is being maintained towards a workable solution, then it may be that the Committee's best option would be to adjourn consideration of this Bill for a period, in order to await developments.