Abortion (Disability Equality) Bill 2016-17

House of Lords, Report Stage
Friday 24 February

About the BMA
The British Medical Association (BMA) is an apolitical professional association and independent trade union, representing doctors and medical students from all branches of medicine across the UK and supporting them to deliver the highest standards of patient care.

Key points
- The BMA has longstanding policy that the Abortion Act 1967 is a “practical and humane” piece of legislation.¹
- We support the current provision within the Abortion Act 1967 to terminate a pregnancy on the grounds of serious fetal abnormality.
- We advise peers not to support this Bill, which seeks to remove this provision from the Abortion Act 1967.

Background
The Abortion Act 1967 – grounds for abortion
Sections 1(1)(d) and 5(2)(a) of the Abortion Act 1967 give the legal provision for a woman to have an abortion if there is a substantial risk that a fetus she is carrying would be born suffering from “such physical or mental abnormalities as to be seriously handicapped”.² This provision applies throughout the duration of a woman’s pregnancy.

The Abortion (Disability Equality) Bill
The intention of the private member’s bill is to remove this provision for an abortion from the Abortion Act 1967.

Abortion on the grounds of serious “physical or mental abnormality”
The BMA’s policy
Abortion is a very sensitive issue, and one on which members of the BMA hold a wide variety of views. BMA policy, however, is made through a well-established democratic structure, whereby members’ views and opinions are aired and debated during discussions on BMA policy at the ARM (Annual Representative Meeting).

The BMA’s longstanding policy on abortion states that the Abortion Act 1967 is a “practical and humane” piece of legislation. Therefore, we support the existing legal framework, which permits the termination of a pregnancy on the medical grounds of serious fetal abnormality.

Medical diagnosis & clinical judgment
The provision to terminate a pregnancy on the grounds of serious fetal abnormality is important because, in some cases, it will become evident during a pregnancy that the fetus has a fatal abnormality and, therefore, is likely to die in utero, during the delivery process, or shortly afterwards – an example of this may be a fetus with severe spina bifida with anencephaly.
In the BMA’s view, it would be inhumane – and risk psychological harm – to make a woman carry a pregnancy to term when the fetus will not survive, if she does not want to do so.

In other cases, the baby might survive with severe morbidity as a result of a serious mental or physical disability. The Abortion Act 1967 does not define its use of ‘seriously handicapped’, which means it is a matter of clinical judgment and best practice. The BMA supports the Royal College of Obstetricians and Gynaecologists’ detailed guidance for health professionals on abortions for fetal abnormalities, and believes the following factors may be taken into consideration by doctors when assessing the severity of an abnormality:

- the probability of effective treatment, either in utero or after birth
- the child’s potential for self-awareness, and potential ability to communicate with others
- the suffering that would be experienced by the child when born, or by the people caring for the child.

It is not always possible for a doctor to make a clinical judgment about the severity of fetal abnormality in the early stages of a pregnancy. It may not be known, in some circumstances, until far later in the pregnancy whether the child will be born with a serious disability (or the true extent of the severity of the disability); whether the condition of the fetus will deteriorate; or whether the mother has contracted an infection known to cause serious abnormalities in the fetus.

In light of these factors, we do not support the Bill’s intention to remove the existing legal provision for women, in these circumstances, to access abortion services for serious fetal abnormalities.

Conclusion
The BMA supports the Abortion Act 1967 and its provisions to allow a woman to seek an abortion, throughout her pregnancy, if there is a substantial risk her child will have a serious or fatal fetal abnormality.

We believe that, at whatever stage a serious fetal abnormality is diagnosed, women and their partners need timely, good quality information about the implications of the result and the options open to them, as well as specialised, non-directive counselling when needed.

The health professional’s role in delivering this information, in a balanced and sensitive manner, is vital to ensuring that any decisions are made in full knowledge of the facts and in a supportive environment – regardless of the outcome. If a firm decision is made to terminate the pregnancy, this should proceed without undue delay and health professionals should provide support before and after the termination.

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2 Abortion Act 1967 Section 1(1)(d): ‘that there is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped’. Accessed online (06/10/16): www.legislation.gov.uk/ukpga/1967/87/section/1