



## Frequently asked questions

The new abortion laws will come into effect in Western Australia (WA) on 27 March 2024.

**Until the new legislation comes into effect, registered health practitioners must continue to comply with the existing legislation.**

### **Under the new laws, what can medical practitioners do?**

A medical practitioner is authorised to perform surgical and medical abortions on a pregnant patient when the procedure used is within their scope of practice and training.

Medical practitioners have certain obligations which are detailed in the questions below.

### **What can nurse practitioners and endorsed midwives do?**

Nurse practitioners and endorsed midwives may issue a prescription for an abortion drug (MS-2 Step) to a patient as part of the care management pathway for early medical abortion. MS-2 Step is indicated in females of childbearing age for the medical termination of an intrauterine pregnancy, up to 63 days of gestation.

Nurse practitioners and endorsed midwives are also authorised to supply or administer an abortion drug to the pregnant patient when the prescription is issued by a medical practitioner or another prescribing practitioner.

Nurse practitioners and endorsed midwives have certain obligations which are detailed in the questions below.

### **What can a pharmacist do?**

A pharmacist is authorised to supply an abortion drug to the pregnant patient when prescribed (that is, when the prescription is issued by a medical practitioner or a prescribing practitioner the pharmacist can dispense the abortion drug to a patient).

Restrictions on dispensing have also been lifted by the Therapeutic Goods Administration (TGA). More information at: [Amendments to restrictions for prescribing of MS-2 Step \(Mifepristone and Misoprostol\) | Therapeutic Goods Administration \(TGA\)](#).

### **What can other registered health practitioners do?**

A registered health practitioner in a relevant health profession is authorised to supply or administer an abortion drug to the pregnant patient when the prescription is issued by a medical practitioner or an endorsed midwife or a nurse practitioner. Relevant health profession means the following fields: Aboriginal and Torres Strait Islander health practice, medicine, nursing, midwifery and pharmacy.

In addition, registered health practitioners in one of the relevant health professions or a student in one of these professions, is authorised to assist in the performance of an abortion being performed by a medical practitioner or prescribing practitioner (nurse practitioner or endorsed midwife). Assisting relates to activities that would normally fall within the scope of practice of the particular registered health practitioner e.g.

a registered nurse or student may set up the operating theatre for a surgical abortion.

### **Is there any training required for medical practitioners, endorsed midwives or nurse practitioners who wish to prescribe the MS-2 Step?**

The new laws allow medical practitioners, nurse practitioners and endorsed midwives to prescribe the abortion drug (MS-2 Step) within their scope of practice and training and as part of the care management pathway for early medical abortion. Under the Therapeutic Goods Administration (TGA), no additional training is required, although practitioners may wish to undertake training.

MS-2 Step is indicated in females of childbearing age for the medical termination of an intrauterine pregnancy, up to 63 days of gestation.

More information at: [Amendments to restrictions for prescribing of MS-2 Step \(Mifepristone and Misoprostol\) | Therapeutic Goods Administration \(TGA\)](#). Useful resources are detailed in the questions below.

### **Abortion up to 23 weeks – requirements of the medical or prescribing practitioner for gestations not more than 23 weeks.**

The historical legislated provisions requiring a pregnant patient to undergo mandated counselling in order for a health practitioner to obtain the patient's informed consent for the abortion have been removed. In practical terms, this negates the need for a pregnant patient to see two medical practitioners prior to accessing an abortion up to and including 23 weeks (23+0).

Under the new legislation, a minimum of one registered health practitioner (medical practitioner or prescribing practitioner) is permitted to provide an abortion service for a patient with a pregnancy gestation not more than 23 weeks i.e. up to and including 23 weeks (23+0).

Informed consent must be obtained from the pregnant patient in line with existing standards of care and professional obligations.

Free, non-directive [pregnancy options support and counselling](#) continue to be available.

For information on informed consent go to [WA Health Consent to Treatment Policy](#).

For information on pregnancy choices go to: [King Edward Memorial Hospital – Pregnancy choices \(including abortion\)](#) (health.wa.gov.au)

### **What does more than 23 weeks mean?**

Gestation is measured in weeks and days that have passed since the first day of the patient's last menstrual period (LMP). If the LMP is not known, an early ultrasound enables calculation of the gestation. More than 23 weeks gestation means that the gestation of the pregnancy is at least 162 days or 23 weeks and 1 day or older.

### **Abortion after 23 weeks – requirements of the medical practitioner for gestations more than 23 weeks**

Only a medical practitioner (the primary practitioner) is authorised to perform an abortion on a patient who is more than 23 weeks pregnant. The primary practitioner is not necessarily the first medical practitioner the patient visits; they may be the medical practitioner to whom the patient is referred, to perform the abortion.

The primary practitioner must consider whether performing the abortion is appropriate in all circumstances. In making a determination, the primary practitioner must take into account:

- all relevant medical circumstances
- current and future physical, psychological and social circumstances
- professional standards and guidelines commonly accepted by members of the medical profession in relation to the performance of the abortion.

The primary practitioner must also consult with at least **one other medical practitioner** who, having also taken into account the above considerations, reasonably believes that performing the abortion is appropriate in all the circumstances.

The primary practitioner must obtain informed consent from the pregnant patient in line with existing standards of care and professional obligations.

## What consent is required for an abortion?

A registered health practitioner is required to obtain informed consent from the pregnant patient in line with existing standards of care and professional obligations.

The historical legislated provisions requiring a pregnant patient to undergo mandated counselling in order for a health practitioner to obtain the patient's informed consent for the abortion have been removed.

## What consent is required for an abortion on an adult without capacity to consent?

Where a pregnant adult is unable to make reasonable judgements about abortion care, the law enables relevant parties to apply to the State Administrative Tribunal (SAT) to make a decision on their behalf.

A guardian previously appointed to the pregnant adult under the *Guardianship and Administration Act 1990* is **not** permitted to give consent to an abortion on the pregnant adult's behalf. A specific application to the SAT is required to seek decision and consent for an abortion.

## What consent is required for an abortion on a patient aged less than 18 years?

### Mature Minors

A pregnant patient aged less than 18 years is **not** required to involve their parent or guardian in their abortion decision if they have been assessed as having sufficient understanding and intelligence to consent to their own medical treatment.

### Non-mature Minors

If a pregnant patient aged less than 18 years is deemed not competent to make a medical decision, they can:

- agree to allow the registered health practitioner to defer to their parent or guardian for a decision. In this circumstance, the health practitioner may obtain informed consent from the parent or guardian.
- refuse to allow the registered health practitioner to defer to their parent or guardian for a decision. In this circumstance, the registered health practitioner must apply

to the Supreme Court or Family Court of WA for a decision on whether the abortion should occur.

## What is conscientious objection?

Conscientious objection refers to the right of registered health practitioners, including medical practitioners, nurse practitioners and endorsed midwives, to refuse to participate in an abortion because it conflicts with their own personal beliefs and values.

**Conscientious objection does not absolve a registered health practitioner of any duty to perform, assist with, make a decision about, or advise a patient about a termination of pregnancy in an emergency.**

## What are the obligations for health practitioners who conscientiously object?

When a registered health practitioner has been requested by a patient for information on abortion or has been asked to participate in an abortion and has a conscientious objection to abortion, the practitioner must disclose their conscientious objection to the patient immediately.

Medical practitioners or prescribing practitioners (nurse practitioner or endorsed midwife) who conscientiously objects to performing an abortion are required to:

- immediately disclose their conscientious objection to the pregnant patient concerning their request; and
- refer the patient to a health practitioner or health service that they reasonably believe can provide the abortion service sought; or
- provide the pregnant patient with information approved by the Chief Health Officer for this purpose (available 27 March 2024). This option does not apply in an emergency.

**Conscientious objection does not absolve a registered health practitioners of any duty to perform, assist with, make a decision about, or advise a patient about a termination of pregnancy in an emergency, where it is their duty to assist.**

## Conscientious objection and assisting in an abortion

Registered health practitioners who conscientiously object to assisting in an abortion must notify the practitioner requesting their assistance at the time the request is made. This provision does not affect the duty of the practitioner to assist with a termination of pregnancy in an emergency, where it is their duty to assist.

Students who conscientiously object to assisting in an abortion must notify the person supervising them of their objection at the time of the request to assist. Students have a right to refuse to participate in an abortion, and this right must be respected by their supervising person.

## What are my obligations if I am unable to perform or refuse to perform an abortion, but I am not a conscientious objector?

Medical practitioners or prescribing practitioners who are unable to perform or refuse to perform an abortion are required to without delay:

- refer the patient to a health practitioner or health service that they reasonably believe can provide the abortion service sought; or
- provide the pregnant patient with information approved by the Chief Health Officer for this purpose.

Reasons for refusing to perform an abortion (other than conscientious objection) may include such reasons as the practitioner's inability to meet essential requirements (such as qualification requirements or not having completed relevant training) or being unwilling or unable to perform the duties (for example, the facility in which they work does not offer the service or have appropriate equipment).

**A medical practitioner or prescribing practitioner who refuses to perform an abortion is not absolved of any duty to perform, assist with, make a decision about, or advise a patient about a termination of pregnancy in an emergency (for example in a life-threatening situation), where it is their duty to assist.**

## What are the notification requirements for health practitioners under the new laws?

Refer to [Statutory notifications requirement changes](#) for more information.

## Do the safe access zones provisions in the *Public Health Act 2016* apply to general practice clinics and other private clinics which provide abortion services?

Yes, the safe access zone provisions in the *Public Health Act 2016* apply to premises at which abortions are provided. These premises may include public hospitals, private hospitals, and outpatient services, such as general practice clinics and abortion clinics, but do not include pharmacies.

The *Public Health Amendment (Safe Access Zones) Act 2021* amended the *Public Health Act 2016* to provide for safe access zones around premises at which abortions are provided and made it an offence to engage in certain prohibited behaviours within safe access zones. Further information on safe access zones can be found in the following information sheet [Public Health Amendment \(Safe Access Zones\) Act 2021](#).

The Western Australia Police Force is the agency responsible for enforcing the safe access zones.

## Useful resources

- [King Edward Memorial Hospital – WNHS pregnancy choices and abortion care service for WA Health professionals](#) (to be updated on 27 March 2024)
- [2023 RANZCOG Clinical Guideline for Abortion Care](#)
- [RANZCOG Abortion Decision Aid Tool](#)
- [HEALTHPATHWAYS](#)
- [King Edward Memorial Hospital – Family and Domestic Violence Toolbox](#) (health.wa.gov.au)
- [RACGP – Intimate partner abuse and violence: Identification and initial response](#)
- [King Edward Memorial Hospital – Sexual Assault Resource Centre \(SARC\) information and resources for health professionals.](#)

## Where can I get more information?

For further information please contact us at [abortionlaws@health.wa.gov.au](mailto:abortionlaws@health.wa.gov.au)

This document can be made available in alternative formats on request.

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