

Queensland Health

Termination of pregnancy in Queensland information for health practitioners

This factsheet aims to answer some commonly asked questions about changes to Queensland's termination of pregnancy laws. It should be read in conjunction with the Key Facts factsheet and updated Termination of pregnancy clinical guideline.

Termination of pregnancy law in Queensland

As of 3 December 2018, the *Termination of Pregnancy Act 2018* (the Act) applies to termination of pregnancy in Queensland. Termination performed by a registered medical practitioner, is no longer a criminal offence under the Criminal Code; nor is it a criminal offence for a woman to consent to, assist in or perform a termination on herself; nor is it a criminal offence to assist a woman to obtain a termination or supply her with the means to do so.

The purposes of the Act are to:

- enable reasonable and safe access by women to termination of pregnancy
- regulate the conduct of registered health practitioners in relation to terminations of pregnancy.

Fast facts

The *Termination of Pregnancy Act 2018* ensures termination of pregnancy is treated as a health issue rather than a criminal issue. The Act:



supports a woman's right to health, including reproductive health and autonomy



provides clarity and safety for health practitioners providing terminations of pregnancy



brings Queensland legislation in line with other Australian jurisdictions.



What this means for health practitioners

Who may perform and who may assist in performing a termination

The Act does not affect the operation of other general requirements under health regulation and clinical practice which require a medical practitioner to be suitably qualified and credentialed and to act within their scope of practice in relation to any healthcare (including a surgical or medical termination) which they may provide.

A registered medical practitioner, nurse, midwife, pharmacist or Aboriginal and Torres Strait Islander health practitioner may assist a medical practitioner to perform a termination.

Aboriginal and Torres Strait Islander health practitioners have been included in the Act to ensure culturally safe and appropriate advice and support for women in rural and remote areas, and to contribute to better health outcomes for Aboriginal and Torres Strait Islander people.

Terminations up to 22 weeks

Registered medical practitioners may perform lawful terminations of pregnancy on request up to a gestational limit of 22 weeks.

Terminations after 22 weeks

For a woman who is more than 22 weeks pregnant, a termination may be performed by a medical practitioner if they consider that in all the circumstances, the termination should be performed and they have consulted with another medical practitioner who also considers that, in all the circumstances, the termination should be performed.

Both medical practitioners must consider:

- All relevant medical circumstances
- The woman's current and future physical, psychological and social circumstances
- The professional standards and guidelines that apply to the practitioner in relation to the performance of the termination.

In an emergency, a medical practitioner may perform a termination after 22 weeks gestation if they consider it is necessary to save the woman's life or the life of another unborn child without consulting another medical practitioner or considering all relevant circumstances.

When it is an offence to terminate

It is an offence for an unqualified person to perform or assist in a termination.

Students are **not** included in the definition of registered health practitioner under the Act, and as unqualified persons it would be an offence for them to assist (s319A of Criminal Code). Student health practitioners are only able to observe.

Consent

The Act does not affect or change existing consent requirements. The usual requirements under general law about consent to medical treatment will continue to operate and apply to terminations of pregnancy.

For a young person who does not have capacity to consent to medical treatment, only the Supreme Court may authorise the termination of pregnancy. A parent/guardian cannot give consent.

For an adult who does not have the capacity to consent to medical treatment, termination of pregnancy decisions are required to be consented to by the Queensland Civil and Administrative Tribunal.

Conscientious objection

The law recognises that health practitioners have and may exercise the right to freedom of thought, conscience and religion, and seeks to balance this against the rights of a woman—particularly the right to health including reproductive health and autonomy.

A health practitioner may refuse to perform or assist in a termination if it conflicts with their own personal beliefs, values or moral concerns. This constitutes a 'conscientious objection'.

If a person asks a registered health practitioner to perform, assist, make a decision or advise about a termination, the law requires a registered health practitioner to disclose their conscientious objection to the person.

In addition, if the person making the request is a woman asking the health practitioner to perform, or advise on, the performance of a termination, the practitioner must refer the woman or transfer her care to another health practitioner or health service provider who, in the first practitioner's belief, can provide the service and does not hold a conscientious objection.

The conscientious objection provision does not extend to administrative, managerial or other tasks ancillary to the provision of termination healthcare; or to hospitals, institutions or services.

Conscientious objection in the case of emergency

The conscientious objection provision does not limit any duty owed by the registered health practitioner to provide a service (including performing or assisting in performing a termination) in an emergency.

Safe access zones

The Act establishes safe access zones around premises that provide terminations to protect the safety and wellbeing and respect the privacy and dignity of women, staff and others who need to access the premises.

A place is in the safe access zone if it is inside the premises or not more than 150m from the premises.

It is an offence to engage in prohibited conduct inside a safe access zone. Any person who engages in prohibited conduct relating to terminations within this zone can receive a maximum penalty of 20 penalty units or one-year imprisonment.

Consequences of non-compliance

Consistent with the principle that termination of pregnancy should in general be treated as a health issue, the Act does not create any specific offences or penalties for a health practitioner's non-compliance.

The Act makes clear that non-compliance with the Act can be taken into account in considering the registered health practitioner's performance or conduct.

The same professional and legal consequences that apply to health practitioners performing other medical procedures will apply to the performance of a termination.

Clinical standards and guidelines

Health practitioners will be guided by the relevant body regarding codes of ethics, rules of professional conduct, and standards of practice.

The [termination of pregnancy clinical guideline](#) has been updated. Health practitioners are encouraged to familiarise themselves with the new guideline.

Births, Deaths and Marriage Registration Act

There have been no amendments to the *Births, Deaths and Marriages Registration Act 2003* as a result of the Act.

The Births, Deaths and Marriages Registration Act requires notification to the Registrar of Births, Death and Marriages of any child born alive. If a termination resulted in delivery of a live foetus, even if death occurred shortly after, the birth must be registered as well as the death.

Part 2 of the Births, Deaths and Marriages Registration Act requires that the birth of a baby born in Queensland, which would include a stillborn child, must be registered as a 'birth' under the Act.

In the Births, Deaths and Marriages Registration Act, a stillborn child means a child:

- a) who has shown no sign of respiration or heartbeat, or other sign of life, after completely leaving the child's mother; and
- b) who—
 - (i) has been gestated for 20 weeks or more; or
 - (ii) weighs 400g or more



Patient Travel Subsidy Scheme (PTSS)

The PTSS provides financial assistance to eligible patients who are required to travel for specialist health services not available locally. For the purposes of termination of pregnancy, the procedure will be managed under Schedule 1 of the Guidelines—Obstetrics and Gynaecology .

Ordinarily a subsidy assists with the cost of travel and accommodation to the nearest specialist medical service that is more than 50km from the woman's nearest hospital. However, depending on the woman's circumstances, exceptions to the nearest specialist service may be considered on a case by case basis.

A referral to a specialist service must be accompanied by results confirming the pregnancy (a positive urine pregnancy test, hCG blood test), estimated gestation and ultrasound results (if available) and attached to the PTSS application.

For further information regarding the eligibility, escorts, travel and accommodation subsidies, application process, subsidy claims funding from alternative sources and administrative process and appeals please refer to the [PTSS guideline \(part A\)](#).

Information and referral options

Additional information and decision support tools for health practitioners can be found on the [Clinical Excellence website](#) or local health service website. For information on services, procedure costs and support options for a woman considering a termination of pregnancy, contact or refer them to:

- **13 HEALTH**
13 43 25 84 is a phone line that provides health information, referral and services to the public.
- **Children by Choice**
1800 177 725 (free call) offers free all-options pregnancy counselling, information and referrals Queensland-wide.
www.childrenbychoice.org.au
- **Women's Health Queensland**
1800 017 676 (free call) offers health promotion, information and education services for women and health professionals throughout Queensland.
www.womhealth.org.au
- **True Relationships and Reproductive Health**
provides expert reproductive and sexual health care.
www.true.org.au



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