Increasing access to medical termination of pregnancy

A submission to the Government on proposed amendments to the *Termination of Pregnancy Act 2018* and Criminal Code Act 1899

September 2023

MSI AUSTRALIA

Acknowledgement

We acknowledge the Traditional Owners and Custodians of the land on which we live and work. We pay our respects to Aboriginal and Torres Strait Islander Elders past and present. We also acknowledge the enduring connection to their Traditional estates across Australia and to the ongoing passion, responsibility and commitment for their lands, waters, seas, flora and fauna as Traditional Owners and Custodians.

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Background

In September 2023 Queensland Health published a confidential consultation paper titled 'Increasing access to medical termination of pregnancy.' It proposes to amend two pieces of legislation, the *Queensland Termination of Pregnancy Act 2018* ("The Act") and the *Queensland Criminal Code Act 1899* ("The Criminal Code").

It outlined two directional shifts, firstly to broaden the prescriber base of medical abortion medication, and secondly to shift the gendered language of the legislation.

Both areas of this Consultation Paper are aligned with national health policy. The Australian Government *Women's Health Strategy (2020-2030)* priority area 1 includes 'increase access to sexual and reproductive health care information, diagnosis, treatment and services'. A key measure of success is 'equitable access to pregnancy termination services'. This proposal provides tangible steps towards abortion equity in Australia.

This submission has been structured in direct response to the consultation format and follows the list of questions in the consultation paper.

MSI Australia

We are Australia's leading, specialised, non-profit advocate and provider of abortion and contraception services. MSI Australia is a part of MSI Reproductive Choices, a global non-profit which has been providing sexual and reproductive healthcare services for over 45 years. Our 9,000 team members worldwide work across 37 countries providing contraception, comprehensive abortion care, and maternal healthcare services wherever they're needed.

Proposal 1: Medical termination of pregnancy

1. Would you support registered health practitioners other than medical practitioners performing early medical terminations of pregnancy through the use of a registered termination of pregnancy drug in Queensland?

Yes. Studies show shifting attitudes in Australia towards nurse and midwifery leadership in abortion care.[1] They point to legislative and policy barriers being a hurdle in moving beyond task based to comprehensive care. [2] Evidence highlights

[1] Mainey, Lydia, Catherine O'Mullan, Kerry Reid-Searl, Annabel Taylor, and Kathleen Baird. "The role of nurses and midwives in the provision of abortion care: A scoping review." *Journal of clinical nursing* 29, no. 9-10 (2020): 1513-1526.
[2] MSI Australia, Nurse-led Medical Termination of Pregnancy in Australia: Legislative Scan, 2nd Edition (2022) at https://www.msiaustralia.org.au/nurse-led-care/.

the value of nurses and midwives skills, knowledge and potential in extending scope of abortion care, particularly in supporting trauma informed care pathways.[3]

It should be noted that "performing" a medical abortion is not simply the "use" of a registered abortion drug. The prescribing of the drug is just one component of a care process that usually involves multiple health practitioners and multiple consultations and extensive clinical and other advice and support. It may also require referral to other services as required.

2. Do you support Nurse Practitioners and Endorsed Midwives prescribing a registered termination of pregnancy drug, for early medical terminations of pregnancy?

Yes. Nurse- and midwifery-led care is evolving.[4] We are at a critical point in evolving models of care in order to maintain and expand access to medication abortion. Across the health system, Nurse Practitioners and Endorsed Midwives have experienced extended scope of practice, recognising their capacity and broader potential for healthcare. We note that each Nurse Practitioners or Endorsed Midwife would be ethically and professionally obligated to only prescribe if they are suitably competent.

3. Do you support registered nurses and midwives being permitted to give a treatment dose of, and administering, a registered termination of pregnancy drug (in line with the requirements under the relevant EPAs)?

Yes, with the caveat that this is a clinical process rather than just a providing a prescription. Evidence-based, accurate and consistent wording in legislation is critical. Robust Extended Practice Authorities are critical. Further details are provided in the sections below.

4. Should a specific gestational limit of not more than 9+0 weeks (63 days) for an early medical termination of pregnancy be included in the legislation?

No. Gestational guidance on medication usage should not be legislated. The preferred approach would be to address through regulations and clinical guidelines. There is national regulation through the Therapeutic Goods Administration and Pharmaceutical Benefits Scheme mechanisms.

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[3] Mainey L, O'Mullan C, Reid-Searl K. Unfit for purpose: A situational analysis of abortion care and gender-based violence. Collegian. 2022 Jan 29.
[4] MSI Australia, Nurse-led Medical Termination of Pregnancy in Australia: Legislative Scan, 2nd Edition (2022) at https://www.msiaustralia.org.au/nurse-led-care/.

If a gestational limit were included in legislation, this would require ongoing legislative amendments every time a sponsor changes the gestational guidance of medication abortion in the future, which is likely.

Locating healthcare guidance within the appropriate pathways enables practice to be evidence based, working to national quality and safety standards.

5. Are there any additional considerations that need to be made for registered health practitioners in the private/not-for-profit sectors and primary care sector?

Yes – many Nurse Practitioners and Endorsed Midwives do not work in large hospital and health service settings that have Extended Practice Authorities because of indemnity related costs to the employer.

Many non-profit and primary care organisations will want to support and provide access to medication abortion provided by Nurse Practitioners and Endorsed Midwives however there will be significant training and development costs, insurance, and substantial policy/procedural implications.

Access to the Pharmaceutical Benefits Scheme for subsidised cost of abortion medicines will be a critical factor.

6. What do you see are the risks, issues or challenges with potential legislative changes? How can you see these being managed or mitigated?

6.1 Ensuring legislation wording is evidence based and consumer and community oriented

This consultation paper does not include any draft legislation, which would have assisted with this review. Poorly worded legislation, or unnecessary amendments to a Bill, which could risk limiting or overcomplicating the context.

There should be a clear, singular focus on allowing ‘prescribing’ by other health practitioners (Nurse Practitioners and Endorsed Midwives). The legislation should not confuse this with ‘administering’ or ‘giving’ the medicine. Currently, the ‘patient’ can take the medicine at home by themselves for teleabortion, and there is no requirement for a health professional to ‘administer’ or supervise administration.

Any future legislation must be evidence-based. The legislative context must enable educational institutions, colleges and practice authorities to evolve models of care alongside the constantly growing evidence base.

6.2 Investing clinical expertise, education and resources to develop practice

Extending the scope of practice needs to recognise that medication abortion is clinical process rather than just a prescription.

Relevant authorities should develop robust minimum standards, considering key areas such as:

- Diagnostic skills,
- Interpreting ultrasounds and other scans,
- Consent processes,
- Medicolegal indemnity and insurances,
- Management of complications, and referral
- Identification of urgent care needs,
- Cultural safety, and
- Safe prescribing including contraindications and drug interactions.

These considerations should be mitigated and managed by Queensland Health and other regulatory and practice agency review processes, like any other medication or health procedure.

7. What do you see is important for legislative changes to be implemented safely in Queensland?

Strategic investment in nursing and midwifery workforce development, training and support, aligned with broader health system reforms. There must be support for non-profit and private providers of abortion care to develop Extended Practice Authorities and investment to support related costs.

There needs to be abortion working groups that oversee safe and effective implementation, including initiatives that promote collaboration across all hospital and health regions.

People who seek abortion care must have choice between medical (medication) abortion and surgical (procedural) methods. Teleabortion must be included. Practitioners in all aspects of abortion care should be includes in working groups.

Proposal 2: Inclusive language

1. Do you have any concerns with adopting inclusive language in the Termination of Pregnancy Act and the offence provision in the Criminal Code?

No. This language is reflective of people's gender identity and expression.

The purpose of gender-neutral language is to avoid words which may be perceived as 'biased, discriminatory or demeaning by implying that one sex or social gender is the norm'.[5]

In the 1800's decades were spent removing 'the universal he' from legislation and de-gender all legislation. There is no need to reintroduce gendered language now.[6]

2. Do you see any risks or challenges in implementing the proposed changes?

No. Accurate language in clinical care ensures quality and safety in clinical outcomes.[7]

Thank you for the opportunity to provide feedback on the draft clinical guidelines for abortion care. Should you wish to discuss this submission further, please contact Greg Johnson, Managing Director at greg.johnson@msiaustralia.org.au.

[5] EUROPEAN PARLIAMENT, GENDER-NEUTRAL LANGUAGE IN THE EUROPEAN PARLIAMENT 3 (2018) https://www.europarl.europa.eu/cmsdata/151780/GNL_Guidelines_EN.pdf
[6] Wayne LD. Neutral pronouns: A modest proposal whose time has come. Canadian Woman Studies/les cahiers de la femme. 2005 Apr 1.
[7] Australian Commission on Safety and Quality in Health Care, National Safety and Quality Health Service Standards at https://www.safetyandquality.gov.au/standards/nsqhs-standards.

Further information

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