

# Health and Other Legislation Amendment Bill (No.2) 2023

## Explanatory Notes

### FOR

## Amendment to be moved during consideration in detail by the Honourable Shannon Fentiman MP, Minister for Health, Mental Health and Ambulance Services and Minister for Women

### Title of the Bill

Health and Other Legislation Amendment Bill (No.2) 2023

### Policy objectives and the reasons for them

The Bill amends the *Termination of Pregnancy Act 2018* to permit a medical termination of pregnancy to be performed by a registered health practitioner whose health profession is nursing or midwifery or another practitioner prescribed by regulation (new section 6A, inserted by clause 22 of the Bill). The Bill requires a practitioner who is performing a termination of pregnancy to be authorised under section 54 of the *Medicines and Poisons Act 2019* to carry out the activity that constitutes performance of the termination.

Section 6A(3), as inserted by the Bill, provides that a registered health practitioner performs a medical termination if the practitioner prescribes, or gives a treatment dose, of a termination drug.

The Medicines and Poisons Act distinguishes between the concepts of ‘give a treatment dose’ and ‘administer’ a medicine. ‘Give a treatment dose’ is defined in section 25(3) of the Medicines and Poisons Act to mean give one or more doses of a medicine to a person to be taken at a later time (for example, to be taken at home). Section 26 of the Medicines and Poisons Act defines ‘administer’ to mean introduce a dose of a medicine into the body of a person or give a dose of a medicine to a person to be taken immediately (for example, handing a dose of tablets to a person for the person to swallow immediately).

The current drafting of section 6A permits a medical termination of pregnancy to be performed by ‘prescribing’ or ‘giving a treatment dose’ of a termination drug, but not specifically by ‘administering’ a termination drug.

Under the Medicines and Poisons Act, nurse practitioners and endorsed midwives will be able to prescribe a termination drug, such as MS-2 Step. Nurse practitioners and endorsed midwives will also be able to give a treatment dose or administer the drug, without a prescription.

It is intended that registered nurses and midwives authorised to work under an Extended Practice Authority (EPA) will be able to use a termination drug to perform a medical termination. EPAs are made by the chief executive of Queensland Health under section 232 of the Medicines and Poisons Act. When a registered nurse or midwife is working under an EPA, no prescription is required for the medication. Instead, the EPA acts as the prescription to authorise the registered nurse or midwife to use the medication.

Depending on a patient’s clinical presentation and the setting where a practitioner works, a registered nurse or midwife working under an EPA could either give a treatment dose or administer a termination drug. In many cases, a termination drug would be given as a ‘treatment dose’ for the patient to take at home. However, there are circumstances where the medication may be ‘administered’ rather than ‘given as a treatment dose’. For example, this could occur if the patient has a co-morbidity that required clinical supervision, is a patient in a hospital or multi-purpose health facility or is living in a home environment where they do not wish to take the drug home with them, such as a domestic and family violence situation. It is also possible that one dose of the drug may be ‘administered’ and the second dose could be given as a ‘treatment dose’.

An amendment is needed to clarify that a registered health practitioner, such as a nurse practitioner, endorsed midwife, or registered nurse or midwife working under an EPA, can perform a medical termination of pregnancy by ‘administering’ a termination drug without a prescription, in addition to ‘giving a treatment dose’, which is already covered by the Bill.

## **Achievement of the Objectives**

The amendment replaces section 6A(3) of the *Termination of Pregnancy Act 2018*, as inserted by the Bill, to clarify that a registered health practitioner performs a medical termination of pregnancy if the practitioner:

- prescribes a termination drug for use in the termination; or
- administers, or gives a treatment dose of, a termination drug for use in the termination without a prescription.

## **Alternative Ways of Achieving Policy Objectives**

There are no alternative ways of achieving the policy objectives.

## **Estimated Cost for Government Implementation**

There are no costs associated with the amendment.

## **Consistency with Fundamental Legislative Principles**

The amendment is consistent with the fundamental legislative principles in section 4 of the *Legislative Standards Act 1992*.

## **Consultation**

Consultation was undertaken with stakeholders before introduction of the Bill as outlined in the explanatory notes for the Bill and during the Parliamentary Committee process. The amendment is minor and technical in nature and no separate stakeholder consultation was considered necessary. The amendment will ensure the Bill operates as intended.

## **Consistency with legislation of other jurisdictions**

The amendments in the Bill to allow additional health practitioners to perform medical terminations of pregnancy align with recent changes approved by the Therapeutic Goods Administration regarding the prescribing and dispensing of MS-2 Step. The approaches being adopted in other States and Territories were outlined in the explanatory notes for the Bill.

## Notes on provisions

*Amendment 1* amends section 6A of the Termination of Pregnancy Act, as inserted by the Bill.

The amendment omits section 6A(3), as inserted by the Bill, and replaces it with a new section 6A(3) which provides that for section 6A(2), a registered health practitioner performs a medical termination on a person if the practitioner:

- prescribes a termination drug for use in the termination; or
- administers, or gives a treatment dose of, a termination drug for use in the termination without a prescription.

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