

CONSCIENTIOUS OBJECTION

Conscientious objection defined: As outlined by the Australian Medical Association, “a conscientious objection occurs when a doctor, as a result of a conflict with his or her own personal beliefs or values, refuses to provide, or participate in, a legal, legitimate treatment or procedure which would be deemed medically appropriate in the circumstances under professional standards.”¹

Provision for conscientious objection in abortion law reform: Conscientious objection is based on firmly held religious, moral or personal beliefs, and is not a tool to discriminate. Health practitioners asked to provide advice, perform, assist with, or supervise a termination of pregnancy procedure when they hold a conscientious objection should not be required to participate.

Conscientious objection in NSW: The approach in the proposed bill is essentially identical to the process outlined in the NSW Ministry of Health’s current Framework for Terminations in NSW Public Health Organisations, that was implemented in 2014.²

Peak bodies for health practitioners, including the Australian Medical Association, the Royal Australian and New Zealand College of Obstetricians and Gynaecologists, the Australian Nursing and Midwifery Foundation, the Pharmacy Board of Australia, and the Medical Board of Australia all have policies and codes of conduct consistent with the measures relating to conscientious objection in the bill.

The approach would be consistent with legislation relating to termination of pregnancy in other Australian jurisdictions, including Victoria, Queensland,³ Tasmania, the Northern Territory, and South Australia.⁴

When conscientious objection should not apply: Conscientious objection should not apply in an emergency. Necessary medical care, especially in an emergency, should take precedence over another’s personal values or beliefs, no matter how firmly held. This position is consistent with the current medical framework in place within NSW Health.⁵

Matters regarding conscientious objection are best dealt with using policies and clinical guidelines; however, administrative staff and facilities should be exempt from being lawfully able to conscientiously object, in order to minimise barriers to access for women living in rural and remote parts of the state, for example.

¹ Australian Medical Association, 2019. “Conscientious Objection - 2019”, *Australian Medical Association*. Available at: <https://ama.com.au/position-statement/conscientious-objection-2019>

² Ministry of Health, 2014. Pregnancy - Framework for Terminations in New South Wales Public Health Organisations, NSW Health, pp.7. Available at: https://www1.health.nsw.gov.au/pds/ActivePDSDocuments/PD2014_022.pdf

³ Termination of Pregnancy Act 2018 (Qld). 2018. Queensland Parliament, Part 2 Section 8. Available at: <https://www.legislation.qld.gov.au/view/html/asmade/act-2018-023>

⁴ Abortion law: a national perspective”, NSW Parliamentary Service. 2017. Online at: <https://www.parliament.nsw.gov.au/researchpapers/Documents/Abortion%20Law.pdf>

⁵ Ministry of Health, 2014. Pregnancy - Framework for Terminations in New South Wales Public Health Organisations, NSW Health, pp.7. Available at: https://www1.health.nsw.gov.au/pds/ActivePDSDocuments/PD2014_022.pdf