ABOUT THE ABORTION LAW REFORM ACT

The Abortion Law Reform Act was passed by the Victorian Parliament in October 2008, bringing the law relating to termination of pregnancy into line with current practice and community attitudes. The Act:

1. Removes abortion from the Crimes Act 1958;
2. Outlines the grounds on which abortion may take place; and
3. States the obligations of registered health practitioners with a conscientious objection to abortion.

- **Grounds for the termination of pregnancy**

Any woman who is no more than 24 weeks pregnant can obtain an abortion from a registered medical practitioner.

After 24 weeks, the abortion can be performed only if the medical practitioner reasonably believes it is appropriate in all the circumstances, that is, having regard to all relevant medical circumstances and the woman’s current and future physical, psychological and social circumstances. They must also have consulted at least one other medical practitioner who also believes it appropriate.

- **Conscientious objection**

Section 8 of the Abortion Law Reform Act 2008 clarifies the action that must be taken by registered health practitioners who have a conscientious objection to abortion. Although there is no penalty for non-compliance with this section, health practitioners may be liable for charges of professional misconduct by their registering authority.

- *The requirement to inform and refer*

Any health practitioner who is asked to advise a woman about abortion, or perform, direct, authorise or supervise an abortion, and who has a conscientious objection to abortion must:

  - Inform the woman that they have a conscientious objection; and
  - Refer the woman to another health practitioner, in the same profession, who the practitioner knows does not have a conscientious objection to abortion.

The term ‘refer’ is to be understood in its ordinary sense, that is, to direct to another source, rather than its meaning in terms of clinical practice (such as a written referral as part of an ongoing working relationship).

This means, for example, that doctors must tell women seeking information about termination of pregnancy services of their objection and refer them to another doctor who does not hold such an objection. It is not a referral directly to an abortion service provider and the woman may or may not go on to terminate her pregnancy.
This applies to a woman seeking advice from any other health practitioner as well. The referral can be as simple as directing the woman to another practitioner who they know has no such objection. The purpose of the clause is to ensure that women receive timely, accurate information from a professional who does not hold an objection to the health service she seeks.

- **Termination of pregnancy in emergency situations**

Doctors and nurses must perform an abortion in those rare, emergency cases where it is necessary to preserve the life of the pregnant woman, regardless of their objection to abortion.

**HUMAN RIGHTS, CONSCIENTIOUS OBJECTION AND THE REQUIREMENT TO INFORM AND REFER**

Section 8 of the Abortion Law Reform Act ensures that women requiring an abortion receive professional, non-judgmental services. It does this by allowing practitioners the professional space to object to abortion, without compromising the ability of women to make informed choices about what is now a legal health service in Victoria. It means that women can be assured that abortion is a legal and a practical reality in Victoria.

A woman’s right to make decisions about her body must be balanced against the religious beliefs or conscientious objection of a health practitioner. A health practitioner with a conscientious objection to abortion should not be discriminated against, but nor should their beliefs affect the ability of their patients to access healthcare.

Women rely on their health practitioners for knowledge and expertise. They expect to be provided with information about all the options that are available including those that the practitioner themselves would not choose. The conscientious objection of a health practitioner must be weighed against their professional duties and obligations to those seeking their services. The care of the patient cannot be compromised by the practitioner’s religious beliefs or conscientious objection, particularly where those beliefs are expressed in terms which intimidate and are intended to influence the woman’s choice.

**THE IMPACT ON WOMEN**

Abortion in Victoria is a health service like any other. A refusal to provide accurate and timely abortion information and services for informed decision-making is not legal. It has a number of consequences for women seeking information about abortion.

- **A health practitioner’s objection to a legal medical procedure can compromise the health services they provide.**

  **Example:** A woman expects that their health practitioner’s religious beliefs will not play a part in the service that they are providing. A woman may not realise the impact of these beliefs on the services offered by the practitioner.

  **Example:** A health practitioner who imposes their religious views on a woman, and who intends to make her feel guilty, ashamed or fearful, can impact on the woman’s desire to seek assistance from health services elsewhere or in the future.
• By not disclosing or misrepresenting the full range of options that are available, a health practitioner violates a woman’s ability to make an informed decision about her pregnancy.

Example: A woman trusts her health practitioner to give her accurate, unbiased information and it is likely that she will be unaware of the fact that she has received wrong or misleading information.

Example: A woman can be left unaware of the options available to her and therefore unable to make an informed choice.

• A refusal to refer can cause trauma to a woman who is already traumatised.

Example: If a pregnancy is the result of rape, a refusal or delay in referral can cause further, unnecessary trauma and distress to the woman.

Example: If a pregnancy has been wanted but must be terminated, a refusal or delay in referral can cause further suffering to a woman and her partner who have made the difficult decision to terminate the pregnancy.

• The lack of prompt advice and care results in inefficient, inconsistent and inequitable services for women.

Example: Treatment may be jeopardised if a woman is not told of her options in a timely manner. Certain medications and services are only available within narrow timeframes. Delay may also have consequences for the woman’s physical and emotional wellbeing.

Example: A woman may not know how much the services she will receive may differ between practitioners. This contributes to inconsistent and inequitable health services for women.

• For women in rural areas, the number of available health practitioners and services are limited.

Example: Rural women may have to travel long distances at greater financial cost to obtain the appropriate care.

Example: Women living in small rural communities may also have to travel elsewhere to ensure privacy and confidentiality.