

Mental Health Care after *Dobbs*: Frequently Asked Questions

Though access to abortion care has been under threat since long before *Roe v. Wade* was overturned, many mental health providers are unsure of what new state laws may mean for how they can support a patient with an unplanned pregnancy. Additionally, self-managed abortion is in the news more frequently as an option for people who cannot or do not want to access abortion in a clinic, and some mental health care providers are unsure of how their obligations might change if a patient plans to pursue self-managed care.

Though this FAQ attempts to provide legal information about abortion for mental health care providers, it is not intended as and should not be used as legal advice.

For further technical assistance on your rights and responsibilities under the law, [please contact If/When/How: tinyurl.com/RequestTechAssistance](https://tinyurl.com/RequestTechAssistance)

What is self-managed abortion?

Self-managed abortion means ending your own pregnancy, without a doctor or other health care provider. Many people go to clinics to get abortion care. But some states make it hard for people to get to clinics. So, some people choose to manage their own abortion because they cannot go to a clinic. Other people would just rather manage their abortion on their own, with pills, herbs, or in other ways. If you or your patient are investigated or arrested for self-managing an abortion, [contact the Repro Legal Helpline](#).

Self-managed abortion with pills is medically safe according to the [World Health Organization](#) and [several studies](#), but there may be legal risks. Though self-managed abortion is only explicitly a crime in South Carolina and Nevada, [26 states have misapplied the law](#) to the act of self-managing an abortion and prosecuted or attempted to prosecute people for self-managing. To learn more about legal rights and risks around self-managed abortion, [contact the Repro Legal Helpline](#).

There's an abortion ban in my state. Can I still talk to my patients about abortion and miscarriage?

Yes. The First Amendment protects our right—all of our rights, regardless of our profession—to discuss abortion (including self-managed abortion), to share information about it, and to advocate for ending prosecutions for abortion. So that means we can all share information about abortion pills. We can all share information about how they work to end a pregnancy. We can all share information about where and how abortion pills have been used around the world, and why and how people are using them in the U.S. We can also safely and legally talk about the other ways people end pregnancies, and what we know about the safety and efficacy of those other means.

There are laws in every state that limit our ability to give legal advice or medical advice to someone if we are not licensed in those professions. Telling someone what legal or medical course of action they should take based on their particular circumstances not only creates legal risk for the person giving the advice, but it also creates risk to the person receiving the advice. What we do want to raise a flag on is giving medical advice regarding where someone can get medication for a self-managed abortion or in general referring directly for self-managed abortion. While we believe the legal risk to be low, we cannot say that activity is entirely free from risk for health care providers.

I want to be able to refer my patient for safe abortion and miscarriage care. Are there legal risks?

In general, the legal risk for referring patients to an abortion clinic in a state where abortion is legal for abortion or miscarriage care is practically nonexistent. Referring a patient for a self-managed abortion or for an abortion in a state where abortion is not legal does carry some legal risk. We encourage individual providers to speak with an attorney at the [Abortion Defense Network](#) for direct advice on this issue.

However, politically motivated officials and individuals may use the law to harass health care providers even though they've done nothing wrong.

What about states with laws that attempt to make it a crime to “aid and abet” an abortion? Does a referral make me an accomplice to the crime of providing abortion care in a state that bans abortion?

The way that states may choose to apply aiding and abetting laws is currently unclear. What is clear is that a state may only apply an aiding and abetting provision to something that is actually a crime. If a mental health care provider is referring a patient to a clinic providing care in a state where abortion is legal, the actual provision of abortion is not a crime, and therefore there is nothing for the “aiding and abetting” provision to attach to. Before providing any other type of referral, mental health care providers should consult with an attorney at the [Abortion Defense Network](#) for direct advice on this issue.

Should I report to anyone else if I find out my patient had an abortion or miscarriage, or is seeking an abortion?

Not unless there is a law that requires it. No state currently requires a mandatory reporter to report the fact of a self-managed abortion to law enforcement or to the family regulation system, sometimes called the child welfare or protective system. Though there may be other reportable incidents surrounding a self-managed abortion, there is not a requirement to reveal the fact of a self-managed abortion to authorities, and doing so may lead to your patient being unjustly charged with a crime and/or jailed. [If/When/How has state-specific fact sheets for mandatory reporters](#) that cover potential reporting requirements that may arise. These fact sheets are clear: reporting a self-managed abortion to legal authorities is almost never required. For more information, or if your state's fact sheet is not yet completed, please [reach out to If/When/How](#) to speak to a legal expert.

Does that answer change if my patient is a young person?

Health care confidentiality protections for young people the law considers minors differ greatly from state to state. You know best whether your patient's parents might have the right to access their file, or to question you about their care. The mandatory reporting fact sheets listed above may provide some legal information, but for more information, please [reach out to If/When/How](#).

What are some ways to ensure my patient knows what my reporting obligations look like?

What you say to your patients about your reporting obligations can be protective for them. They deserve the opportunity to consent to a report, and letting them know when and why you'd be obligated to report something before care begins, and again as needed, can help them feel more empowered.

What legal information can I safely share about abortion and miscarriage? What about medical information?

Sharing medical and legal information is protected by the First Amendment. There are several great resources that may help guide you. [ReproLegalHelpline.org](https://reprolegalhelpline.org) provides legal information on self-managed abortion as well as care denials for abortion or miscarriage care. Planned Parenthood has [medical information on abortion](#), as does the World Health Organization. The Center for Reproductive Rights has [a map](#) that provides an overview of current abortion law.

Patients may also be worried about talking to health care providers at a hospital or clinic about abortion or miscarriage. [This fact sheet for patients](#) may be a helpful resource.

Where can I refer my patients for legal questions related to self-managed abortion or pregnancy criminalization? What about medical questions?

For medical questions, the [Miscarriage and Abortion Hotline](#) provides anonymous medical information and advice. For legal questions, your patients can contact the [Repro Legal Helpline](#).

I'd like to improve my skills around talking about abortion and miscarriage with patients. Where can I learn more?

[Provide is an organization that trains support workers and health care providers](#), including mental health care providers, on how to provide unbiased options counseling after an unplanned pregnancy, and can help providers become more comfortable with discussing abortion as an option. For pregnancy loss, mental health providers may want to have grief counseling specialists on hand for referrals or seek out specialized training around miscarriage grief.

I want to let my patients know I support them, no matter what decision they make about a pregnancy. How might I do that?

One way is to tell them directly! [Another is by listing your practice on the directory of pro-choice mental health providers](#).

Resources

[If/When/How: Lawyering for Reproductive Justice](#) transforms the law and policy landscape through advocacy, support, and organizing so all people have the power to determine if, when, and how to define, create, and sustain families with dignity. We provide legal information and advice to people with questions about the law and self-managed abortion; legal defense to people who are criminalized for their pregnancy outcome; and bail and other financial assistance to support the legal defense of people who have been criminalized for self-managed abortion.

- The [Repro Legal Helpline](#) is a free, confidential source for legal advice and information on self-managed abortion. Visit [ReproLegalHelpline.org](https://reprolegalhelpline.org) or call 844-868-2812.
- The [Repro Legal Defense Fund](#) provides financial assistance to people criminalized for self-managed abortion and pregnancy loss assisting with bail, court fees, and funding expert witnesses. Visit [ReproLegalDefenseFund.org](https://reprolegaldenfund.org).