

(Updated June 29, 2023) UW Medicine Responds to Supreme Court Decision on Abortion

The Q&A below was updated and augmented with new information on June 29, 2023. It addresses potential impacts of court decisions ranging from the Supreme Court (the “Court”) decision in 2022 to overturn Roe v. Wade to more recent cases, including conflicting rulings over the status of abortion medication. The Court’s decision does not affect abortion services provided in Washington state, which are protected under state law.

The Supreme Court decision in *Dobbs v. Jackson Women’s Health Organization*, overturning *Roe v. Wade* and *Planned Parenthood v. Casey*, has had significant impacts nationally on healthcare justice, affecting the health, financial stability and opportunity for many people across the country. In the environment where Roe no longer offers a consistent federal right to abortion, multiple states have enacted laws further restricting access to abortion and creating even more burdens for women and other pregnant people, people of color and those who are unable to travel out-of-state for their medical care. In the wake of the Dobbs decision and actions in other states to restrict abortion services, UW Medicine leadership reaffirms our support for access to abortion care as part of a full continuum of reproductive healthcare services, including access through telemedicine for patients located in Washington state.

We will continue our current practice of broad access to abortion for our patients, where permissible, and seek to minimize any impact these changes will have on our teaching programs and the provision of abortion care for our clinicians, faculty and staff.

The Court’s decision and restrictive laws enacted in other states do not directly affect abortion services provided in Washington, which are protected under state law. However, we recognize that there may be implications for UW faculty, clinicians, residents and students in the WWAMI region outside of Washington, as well as for patients from other states who may now seek care in Washington state. (WWAMI is an acronym for the states served by the UW School of Medicine: Washington, Wyoming, Alaska, Montana and Idaho.)

UW Medicine has convened a team including clinicians, faculty and attorneys to review the Supreme Court decision and state laws enacted post-Roe to provide general guidance to faculty, clinicians, residents, students and staff regarding the practice and

teaching of reproductive care within Washington state as well as the other WWAMI states. Additional information will be shared as it becomes available. In the meantime, we affirm the following:

An individual's right to an abortion:

- We will continue to support the principle that everyone should have full access to the healthcare services they need, including reproductive care. We also believe that all medical decisions, including the decision to have an abortion, should be made by an individual with the support of their clinician.
- Patients in Washington will continue to be able to access abortion services. However, we recognize that continuing federal court challenges to the Food and Drug Administration's approval of an abortion medication could potentially affect patients in Washington. Patients in many other states have been impacted by changes to laws in their states. These changes may have implications for UW Medicine clinicians who are licensed in and provide care to patients in those states and/or for UW Medicine clinicians who provide care to patients in Washington through telemedicine, including non-resident patients accessing reproductive care while here temporarily. We have been developing and will continue to develop information to guide our UW Medicine clinician community as we navigate abortion restrictions imposed in other states.

Our students, residents, and fellow trainees will continue to learn about all aspects of reproductive healthcare:

- As an integrated clinical, research and learning health system, UW Medicine is committed to training the next generation of healthcare professionals, and we believe that our medical students, residents and fellow trainees must learn about all aspects of reproductive healthcare, including family planning, contraception and abortion, to care for patients effectively and responsibly.
- The Supreme Court's decision will not affect the School of Medicine's curriculum. Our medical students learn about abortion in a classroom setting. Medical students are not required to participate in abortion care; however, those who request clinical exposure to abortion will continue to be able to receive this training in Washington.
- Currently, there are regional variations in what students are taught during their clerkships, depending on the clerkship site and where they are located in the WWAMI region. For example, Catholic institutions in all states do not teach abortion care. Some OB-GYN and Family Medicine clerkship sites in states where

abortion care was available will no longer offer abortion care to patients, and those educational opportunities may no longer exist. We do not anticipate any curriculum changes for residents in our Department of Obstetrics and Gynecology, Department of Family Medicine, or for our Complex Family Planning or Reproductive Health Advocacy fellows, as these programs currently train exclusively within Washington.

- We are continuing to assess how the Court's decision is impacting Family Medicine residents in the other WWAMI states of Wyoming, Alaska, Montana and Idaho. Each state has its own authority to limit, restrict or preserve abortion access, and we are monitoring legislation in each state to understand how any changes in their laws will impact our teaching and clinical care activities, particularly in the WWAMI region. UW Medicine's leadership remains committed to providing teaching, training, and access to reproductive healthcare to the full extent permitted by law and will provide additional information as it becomes available.

Q&A on court decisions, restrictive laws outside Washington and their collective potential impact

Q. What is UW Medicine's position on abortion services?

A. [UW Medicine](#) supports access to abortion services for all patients who need them. UW Medicine's mission is to improve the health of the public. As a part of this mission, we have always supported — and continue to support — the principle that everyone should have full access to the healthcare services they need, including reproductive medicine. We also believe that the decision to have an abortion, like all medical decisions, should be a decision made by an individual with the support of their clinician. As a learning organization committed to training the next generation of clinicians, we believe that our resident and fellow trainees should have experience in all aspects of reproductive health, including family planning, contraception, and abortion.

Q. When did the U.S. Supreme Court overturn *Roe v. Wade*?

A. In June 2022, the United States Supreme Court issued its opinion in the case of *Dobbs*, which overturned a half-century of precedent that recognized a federal constitutional right to privacy protecting abortion care from state and federal regulation under most circumstances.

Q. Prior to the Supreme Court's *Dobbs* decision, what was the state of U.S. law regarding access to abortions?

A. Prior to this decision, U.S. Supreme Court precedent — based primarily on the cases *Roe v. Wade*, *Planned Parenthood v. Casey*, and *Doe v. Bolton* — prohibited states from banning abortions prior to the viability of a living fetus. For simplicity, we refer to this line of precedent as *Roe v. Wade*.

Q. Does the Supreme Court opinion in *Dobbs* affect Washington's laws protecting abortion rights?

A. No. Washington law protects a pregnant individual's right to an abortion in Washington, and the federal constitutional issues decided in *Dobbs* do not change those rights.

Q. What laws have been enacted or enforced in WWAMI states to restrict access to abortion since *Dobbs*?

A. The Idaho Supreme Court has upheld all of Idaho's abortion laws, which include criminal and civil liabilities, as well as adverse professional licensure actions. A recent Idaho law makes it illegal for adults to procure an abortion or abortion medication by "recruiting, harboring, or transporting" minors across state lines without parental consent.

Abortion remains legal in Wyoming while court proceedings continue in a lawsuit challenging multiple state abortion bans.

While abortions continue to be legal in Montana, the state recently enacted a law banning abortions performed late in the viability period. At the end of the legislative session the Governor signed five anti-abortion bills, several of which are under challenge, together with a challenge to the late abortion ban, on the basis that the laws violate the state constitution.

Abortion remains legal in Alaska. In 1997, the state's highest court recognized a fundamental right to "reproductive choice" under the Alaska Constitution.

We are monitoring the status of abortion laws in these states and continuing to analyze what impacts these laws may have on our educational and clinical activities in these states.

Q. Is the abortion medication mifepristone still FDA-approved, given recent litigation regarding the status of the drug?

A. Yes, FDA approval persists while recent litigation proceeds. The Washington state Attorney General's Office brought a lawsuit arguing that the FDA's current restrictions on the abortion medication mifepristone were unduly restrictive compared with other drugs, and that it should remain on the market. Sixteen other states and the District of Columbia joined the lawsuit. The federal judge who heard the case agreed with Washington and ruled that the FDA was barred from reducing the availability of mifepristone in the plaintiff states.

A Texas federal district court judge, however, issued a conflicting ruling that the FDA improperly approved mifepristone in 2000 and that all subsequent modifications relaxing restrictions on the use of the drug were invalid. The FDA appealed the Texas ruling to the 5th Circuit Court of Appeals, which largely agreed with the Texas court. The Justice Department appealed to the Supreme Court, which issued an administrative stay requiring that the current relaxations to mifepristone restrictions continue throughout both the 5th Circuit proceedings and any appeal made to the Supreme Court. The Court order states that if the Supreme Court decides to take the case, the stay continues until it issues a decision. If the Supreme Court decides not to hear the case, the 5th Circuit decision would be the final ruling. The bottom line is that mifepristone remains FDA-approved and available to patients today, but this may change as the litigation evolves.

Q. How are UW School of Medicine faculty clinicians protected when providing abortion services within the course and scope of our UW Medicine practice?

A. The University of Washington provides professional liability coverage for faculty clinicians providing abortion services within the course and scope of their UW Medicine practice so long as the clinician is not acting in bad faith. Additionally, UW Physicians (UWP) and Children's University Medical Group (CUMG) provide legal representation for members who are the target of a license-related investigation, such as when a complaint is filed with the Washington Medical Commission, when the activity at issue

involves the faculty member acting within the course and scope of their faculty practice and not acting in bad faith.

For clinicians who are not members of UWP or CUMG, the university may provide similar coverage for licensure matters, based on whether the employee is acting within the course and scope of their employment and not acting in bad faith. For all of these options, an individual who knowingly violates the law or employer policies may be acting in bad faith. If you have questions as to a proposed course of conduct, you may contact UW Medicine Compliance for guidance.

New legislation enacted in Washington provides additional protections for healthcare professionals providing abortion services in Washington by restricting the ability of other states to use Washington courts and the Washington state judicial process to enforce the restrictive laws of other states targeting abortion.

Clinical Practice Implications

Q. Do the recent rulings from federal courts in Texas and Washington affect how UW Medicine provides abortion care to individuals in Washington?

A. No. For now, UW Medicine's practices remain unchanged following the federal court rulings in early April. In Washington, as well as the states that joined the Washington-led lawsuit, patients will continue to have access to the abortion medication mifepristone. The federal judge in the Washington state-led litigation also issued a confirming order that, in the states that brought the lawsuit, the FDA cannot alter the availability of mifepristone under current mifepristone usage guidelines in place as of January 2023.

Q. Does the Supreme Court opinion in *Dobbs* affect how UW Medicine provides abortion care to individuals in other states?

A. Yes. We continue to work with a team of attorneys from the state Attorney General's Office to understand the full impact of the *Dobbs* decision on abortion rights and access to abortion care for individuals in other states, including how states are implementing their own laws that restrict abortion access and/or impose penalties on those assisting someone obtaining an abortion. Some impacts are discussed below. We will continue to update this FAQ as we know more.

Q. Can a faculty member or UW clinician perform an abortion, assist in performing an abortion, or prescribe abortion medication in a state that declares it illegal?

A. No. Even if licensed in a state that permits abortion, faculty and UW employees must abide by the laws of the state in which care to the patient is provided.

Q. Can a faculty member or UW clinician provide an abortion consult, in person or through telemedicine, with a patient located in a state that declares it illegal?

A. No. The practice of medicine occurs in the location of the patient. Faculty and other UW clinicians must abide by the laws of the state in which care to the patient is provided. If abortion is illegal for the patient based on their location and individual health circumstances, then abortion cannot be a treatment recommendation for that visit.

Q. Can a faculty member or UW clinician provide general education about abortion to a patient in a state that declares it illegal under most circumstances?

A. Generally, yes. A UW faculty clinician may inform the patient that abortion care is illegal in a state in which abortion services are illegal and also that abortion services are legal in other states. The clinician can provide general education about abortion as long as the healthcare professional does not: (i) recommend that the individual seek an abortion; (ii) provide abortion services including medication abortion to a patient in a state where abortion is illegal; or (iii) recruit an individual across state lines to a healthcare practice or provider in a state where abortion is legal.

Q. Can a faculty member or UW clinician perform an abortion procedure for a patient located in Washington even if Washington is not the patient's permanent residence?

A. Generally, yes. While some states have already attempted to reach across state borders to prohibit abortion for individuals who live in their state, such restrictions are almost certain to be challenged in court. Idaho, for example, recently passed a law making it difficult for minors to cross state lines for abortion services. We will continue to monitor the legal landscape as similar laws are enacted and/or challenged.

Q. Can a faculty member or UW clinician dispense an abortion-inducing medication across state lines to a patient in a state that makes abortion illegal?

A. No. If a state prohibits abortion by medication, faculty and UW employees must abide by the laws of that state when treating a patient who is physically present in that state. Since medication abortions would be prohibited in states where abortion is illegal, UW clinicians should not dispense abortion medication to patients who are physically in that state at the time of the clinical service, even if the statute declaring abortion illegal is silent on abortion medication.

Q. Can a faculty member or UW clinician dispense an abortion-inducing medication to a patient located in Washington who came to Washington to receive abortion services?

A. Generally, yes. Washington law allows Washington clinicians to provide abortion services to patients who are located in Washington, regardless of what state they live in. A patient presenting in Washington for services may be treated in Washington, consistent with the laws of Washington. Faculty should advise patients that abortion inducing-medication must be used only in Washington. Faculty must administer abortion inducing medication in Washington and, for a telemedicine service, only send the prescriptions to certified pharmacies located in Washington. While some states such as Idaho have enacted laws that potentially reach across state borders to prohibit abortion for their citizens, we are not aware of any states that do so successfully and will continue to monitor the legal landscape.

Q. Are UW Medicine patients able to access abortion services through telemedicine?

A. Yes. As of June 1, 2023, UW Medicine provides access to abortion services through telemedicine to new and existing patients located in Washington, including patients from other states who travel to Washington for their telemedicine visit. To make an appointment, patients can call [206-520-5000](tel:206-520-5000) or [book online](#).

Q. Is there anything UW Medicine clinicians should know about miscarriage management post-*Dobbs*?

A. Miscarriage management is commonly addressed through use of the same medications as are used for medication abortion or uterine aspiration. Even in states such as Texas, where abortion restriction is the most extreme, currently miscarriages may still be managed medically through either of these methods.

Q. What do we need to know about post-abortion care?

A. While complications from abortion or miscarriage are rare, conditions such as retained pregnancy tissue in the uterus, bleeding and infection can occur. It is critical for patients seeking post-abortion care services to be treated with care and dignity and to have their medical issues addressed upon presentation. Post-abortion care may happen in a clinic or an emergency department setting and includes: managing residual side effects or complications of abortion, emotional support, and providing comprehensive birth control services without discrimination or coercion. UW Medicine provides confidential post-abortion care; patient information remains private for post-abortion care services in the same way other services remain private. It is generally not necessary for patients to disclose that they have had an abortion. Moreover, healthcare professionals are unable to determine whether the complications occur from abortion or miscarriage.

Emergency Medical Treatment and Labor Act (EMTALA)

Q. In light of the U.S. Supreme Court decision in *Dobbs*, are some hospitals no longer required to provide emergency abortions?

A. In Washington state, the answer is no. Under EMTALA, all Medicare-participating hospitals with a dedicated emergency department are required to provide necessary medical care to assess and stabilize a patient with an emergency medical condition (EMC). The Biden administration has recently clarified that EMCs include ectopic pregnancy, complications of pregnancy loss, or emergent hypertensive disorders, such as preeclampsia with severe features. A patient who is experiencing any of these EMCs may need an abortion, and therefore the hospitals described above are required to provide an abortion in these cases if it is the necessary stabilizing treatment for the patient's EMC. The Biden administration issued guidance that EMTALA preempts state law that directly conflicts with federal law. Texas sued to block the enforcement of the guidance while the Biden Administration sued the State of Idaho to block its abortion ban to the extent it prohibits healthcare professionals from providing emergency services in circumstances required by EMTALA. These legal challenges are ongoing and each is likely to be appealed to the respective Circuit Courts of Appeals. Additionally, the Biden Administration has announced that it has undertaken two investigations of hospitals for violating EMTALA obligations when they denied necessary stabilizing care

to an individual in need of an abortion. We will update this answer as this issue evolves.

Q. If I have reason to believe an outside hospital refused to provide a necessary emergency abortion to a patient I am caring for, what should I do?

A. Take the following steps:

- Contact UW Medicine Compliance directly at comply@uw.edu or [206-543-3098](tel:206-543-3098).
- Notify your supervisor immediately and work with them to notify your department's nurse manager and medical director as well as the hospital's medical director.
- Document and enter the information into your facility patient safety system.

Education

Q. Are there implications for our medical students now that *Roe* has been overturned?

A. We do not expect any immediate implications for our ability to teach abortion in a classroom setting. It is required by the Liaison Committee on Medical Education (LCME) that medical students learn about abortion. We will continue to teach all second-year UW medical students about abortion in the classroom setting in all WWAMI states, as we do today.

Third and fourth-year medical students can gain practical experience through observing or assisting an abortion as part of an OB-GYN or Family Medicine clerkship if they desire to do so. There have been variations in what students are taught during their clerkships depending on where the student is in the WWAMI region, and the clerkship site. For example, Catholic institutions in all states do not teach abortion care. All OB-GYN and Family Medicine clerkship sites in states where abortion care is now illegal will no longer offer abortion care to patients, and that educational opportunity will no longer exist. However, medical students will continue to have access to this educational opportunity in states where it remains legal, including Washington.

Our medical students often practice medicine in other states after their training here is complete. For students who participated in abortion services as part of their training in Washington, we are not aware of any state taking licensure action against licensees or

applicants who participated in abortion care in a state where it was legal. We will update this FAQ as this issue evolves.

Q. Are there implications for UW Medicine residencies and fellowships now that *Roe* has been overturned?

A. Currently all UW Medicine-sponsored residencies and fellowships where abortion is taught occur in Washington (this includes OB-GYN and Family Medicine residencies and family planning/reproductive health fellowships). While the Supreme Court *Dobbs* decision does not have any immediate implications for these residents and fellows, we are monitoring state legislation, particularly in Idaho, related to implications for a resident or fellow who assists in performing an abortion in Washington on an Idaho resident.

Q. Are there implications for the Family Medicine Residency Network (FMRN) now that *Roe* has been overturned?

A. Yes. There will be impacts to FMRN residents in Idaho, and there may be impacts in other states that take legal steps to restrict abortion services.

The FMRN is a network of family medicine residency programs throughout the WWAMI region sponsored by healthcare institutions other than UW Medicine. FMRN faculty are not UW employees and generally do not provide care at UW Medicine facilities as part of their faculty roles, even though they have appointments in the UW School of Medicine Department of Family Medicine. The Department of Family Medicine provides support to FMRN faculty such as learning collaboration, residency program consultations, faculty development, administrative support and regional marketing. Abortion care is taught in some FMRN family medicine residency programs, where allowed by state law and the supporting hospital system. The university's legal counsel do not provide legal advice to the FMRN family medicine residency programs or to participating faculty for their independent clinical practice. The University does not provide professional liability for the independent clinical practices of these faculty.

Mental Health Resources

Q. Are mental health resources available to me to help me process all of this?

A. Yes. Resources for faculty and staff are available at the [SoM Employee Mental Health Resources](#).