

Defense Advisory Committee on Women in the Services Requests for Information  
Office of the Assistant Secretary for Health Affairs and Defense Health Agency Response  
August 2022

PREGNANCY IN THE MILITARY

**RFI 15.** *The Committee understands the Defense Department will continue to ensure that servicewomen have access to reproductive health care in the wake of the Supreme Court decision to overturn Roe v. Wade (known as Dobbs v. Jackson), which ended constitutional protections for abortion. As the Defense Department continues to examine this Supreme Court decision and evaluate policies to ensure Service members, dependents, beneficiaries, and Defense Department civilian employees are provided seamless access to essential women’s health care services, as permitted by federal law, the Committee is concerned about potential impacts to servicewomen.*

**Health Affairs:** *According to Air Force (AFI41-210), Army (AR 40-400), Navy and Marine Corps (BUMEDINST 6320.72), and Coast Guard (COMDTINST M6000.1E), Service members are required to complete a number of steps before obtaining an elective surgery. When servicewomen seek a surgical abortion, are they required to follow these same processes? Additionally, if a servicewomen returns from leave after obtaining a medical or surgical abortion and becomes ill, will she subsequently be admitted into military treatment facility (MTF) and/or placed on convalescent leave?*

RESPONSE:

The Department is prohibited from providing abortions by federal statute, except when the life of the mother is at risk should the fetus be carried to term or when the pregnancy is the result of rape or incest, referred to as “covered abortions”. Service members receiving a covered surgical abortion will follow any medical guidance provided by their health care provider and recommendations for convalescent leave will be made, in accordance with standards of care. There are no policies from the health care perspective for Service members seeking non-covered abortions prior to that care. However, Service members are encouraged to schedule an appointment with their Primary Care provider after receiving such care, or seek care at the emergency room, as necessary if they experience any complications and need to obtain follow-up care or referrals for additional care. Service members who become ill as a result of a non-covered abortion will received the full scope of care authorized by the Military Health System and convalescent leave may be recommended by the health care provider, as medically indicated.

**Health Affairs:** *In 2010, the military lifted the ban on emergency contraception (e.g., Plan B), making it available to servicewomen without a prescription. However, as state trigger laws go into effect, some restrictive states have begun making it harder and sometimes illegal for women to obtain emergency contraceptives. Will these restrictions apply to servicewomen stationed within those states, seeking emergency contraceptives from their MTF? Additionally, will servicewomen be afforded access to the abortion pill (i.e., medication abortion) at MTFs?*

## **RESPONSE:**

Emergency contraception is currently available to all Service women at MTFs. The most commonly referenced type of emergency contraception, Plan B, is available without a prescription or co-pay at MTF pharmacies and local network retail pharmacies (if the Service women shows their military identification and requests the pharmacy benefit is utilized). Other forms of emergency contraception, such as Ella or emergency placement of intrauterine devices are available via health care providers who will either prescribe Ella or place the intrauterine device.

Medical abortions, those accomplished utilizing medication, are currently available at MTFs with health care providers certified to administer mifepristone, one of the medications necessary to provide a medical abortion, in accordance with the Food and Drug Administration requirements. It should be noted that the medical abortions are typically only recommended for pregnancies at ten weeks or less gestation. Service members within the gestational age recommendations, seeking covered abortions may receive a medical abortion from a health care provider certified to administer mifepristone, as determined to be medically appropriate by that provider. The Food and Drug Administration does not currently authorize mifepristone to be prescribed and dispensed by pharmacies at this time, however, per the Food and Drug Administration, plans to authorize dispensing from pharmacies is forthcoming. Until such changes are made to the certification requirements, Service members can receive covered medical abortions from certified health care providers.

In the Under Secretary of Defense for Personnel and Readiness memorandum dated, June 28, 2022, “Ensuring Access to Essential Women’s Health Care Services for Service Members, Dependents, Beneficiaries, and Department of Defense Civilian Employees”, the Supreme Court’s decision on *Dobbs v. Jackson* does not prohibit the Department from providing covered abortions, consistent with federal law. The implications of the Supreme Court’s decision are complicated and must be evaluated against various state laws, together with views of the Department of Justice. However, processes exist for Service members to be transferred to other facilities if necessary care is not available at their local MTF. Therefore, Service members in need of covered care, such as emergency contraception and covered abortions, will continue to receive that care.

***Health Affairs:*** *In addition to restrictions on servicewomen obtaining safe and legal abortions, the Committee is also concerned about the unintended consequences related to servicewomen accessing assisted reproductive services (i.e., infertility care), which in some cases is contracted to civilian providers. How does the Supreme Court’s opinion now impact servicewomen’s access to assisted reproductive services, as some state-level abortion bans utilize broad or imprecise language that prohibits reproductive medicine?*

In general, assisted reproductive services (ART) are not authorized by TRICARE for all Service members. However, Service members who experience a severe illness or injury are eligible for ART through the Supplemental Health Program. The Department will continue to provide authorized care. However, any state-specific questions will require state and law specific analysis.