



REFORMS TO SEX OR GENDER RECOGNITION IN WESTERN AUSTRALIA



INFORMATION FOR DOCTORS AND PSYCHOLOGISTS ABOUT THE PROCESS FOR CHILDREN (12 TO 17 YEARS) TO UPDATE THEIR SEX OR GENDER IN THEIR BIRTH REGISTRATION

The Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Act 2024 (WA) ('the reforms') abolishes the Gender Reassignment Board (the Board) and creates a new streamlined process for the parents or guardians of a child to apply for an update to the child's sex or gender marker in their birth registration, or apply for a document acknowledging their sex or gender if they were born outside of Australia. This new process is managed by the Western Australian Registry of Births, Deaths and Marriages (the Registry).

This Fact Sheet provides information for doctors and psychologists on this new process, in relation to children.

What is the role of doctors and psychologists in this new process?

Applications to update a child's sex or gender in their birth registration are required to include in their application a statement from a doctor or psychologist certifying that the child has received 'appropriate clinical treatment' in relation to their sex or gender and understands the meaning and implications of the application. See the "**How is 'appropriate clinical treatment' defined?**" section below for further information.

The legislation does not define what kind or duration of treating relationship is required between a doctor or psychologist and the child for the statement to be made. For example, the doctor or psychologist providing the statement does not have to be the same person who prescribed or provided treatment to the individual.

Why are these reforms important for individuals?

It is important for a person's health and wellbeing that their sex or gender is correctly identified in their legal documentation.

Should doctors and psychologists use the term 'sex or gender'?

The legislation is written using the term 'sex or gender'. A doctor or psychologist is not being asked to select one or distinguish between the two. Doctors or psychologists should use the term 'sex or gender' consistently when they are preparing a statement for a patient.

What are the sex or gender classifications under the new process?

A child's sex or gender can be recognised as 'male', 'female' or 'non-binary' in their birth registration under the new process. No other description will be accepted.

Who can apply?

The parents or guardians of a child aged 12 to 17 years can apply directly to the Registrar of Births Deaths and Marriages (Registrar) to update the child's sex or gender in their birth registration if the child's birth is registered in WA or for an acknowledgment document if they were born overseas.

Both of the child's parents or guardians must support the application. If one parent or guardian does not support the application, the parent or guardian who supports the application will need to apply to the Family Court for an order. If neither parent or guardian supports the application, the child can apply to the Family Court for an order directly.

A child under the age of 12 must have both parents or guardians apply directly to the Family Court for an order. If granted, this order will require the Registrar to approve the application.

How is doctor and psychologist defined?

A doctor is defined in the legislation as meaning a person registered under the *Health Practitioner Regulation National Law (Western Australia)* (National Law) in the medical profession. A psychologist is similarly defined as a person registered under the National Law in the psychology profession.

How is 'appropriate clinical treatment' defined?

The term 'appropriate clinical treatment' is not defined in the legislation. The meaning of 'appropriate' takes its ordinary meaning, which is 'suitable or fitting for a particular purpose, person or occasion'. The decision on what clinical treatment is appropriate should be informed by prevailing medical standards and clinical judgement.

There is no minimum requirement for treatment, recognising that appropriate clinical treatment will differ significantly between people. For example, it may include discussions with a doctor or psychologist, hormone therapy, puberty blockers, chest binders, speech therapy and voice modification, facial hair removal, supportive therapy or other forms of gender affirming care.

In some instances, a doctor or psychologist may form the view that an individual does not need any treatment and be satisfied that the individual has received treatment that is appropriate for that person.

In all circumstances, what comprises appropriate clinical treatment will be determined in confidence between a person and a doctor or psychologist.

What form must the statement take?

There are no set requirements for a statement from a doctor or psychologist. The Registrar will accept a statement in the form of a letter signed by the doctor or psychologist, which adopts the wording of the legislation. Doctors or psychologists should consider including the following in a statement for children:

- The words, 'I certify that <applicant's full name> has received appropriate clinical treatment in relation to their sex or gender'.
- The words, 'I certify that <applicant's full name> understands the meaning and implications of the application'.
- A specification of the sex or gender of the applicant being either 'male', 'female' or 'non-binary'.
- Their professional contact details and qualifications.

The reforms do not require doctors or psychologists to provide any details in relation to the clinical treatment the child may or may not have undertaken.

An example statement is provided on the Registry's website at justice.wa.gov.au/bdm. Please note, the example statements are different for adult and child applicants.

What if I conscientiously object to providing a statement?

If a doctor or psychologist objects to providing a statement, they should refer the patient to another provider who can assist.

Additional resources

Further information is available at:

- **WA Primary Health Alliance, Clinician Assist** – Provides GPs and other health professionals with guidance for assessing, managing and referring patients across WA at no cost (clinicianassistwa.org.au).
- **TransFolk WA** – A support and advocacy service for trans and gender diverse people in WA who have a list of recommended providers available upon request (transfolkwa.org.au).
- The **Australian Professional Association for Trans Health** (AusPATH) – Their website contains resources on gender affirming care and a list of WA providers who are committed to strengthening the health, rights and wellbeing of all trans people (auspath.org.au/providers).
- **headspace** – Australia's National Youth Mental Health Foundation, providing early intervention mental health services to 12 to 25 year olds headspace.org.au.

Navigating gender affirmation

There is no prescribed or correct order of medical, social, and legal steps in a person's gender affirmation journey. Legal affirmation may be the first significant step for some people, and it is important to recognise that each person's journey is unique.

Further information can be found on the Registry's website justice.wa.gov.au/bdm including a fact sheet for doctors and psychologists in relation to applications for children.