



Hon Nick Goiran MLC

Member for the South Metropolitan Region

Phone: 08 9398 3800

Fax: 08 9398 3822

Email: nick.goiran@mp.wa.gov.au

Office: Suite 2, 714 Ranford Road
SOUTHERN RIVER WA 6110

www.nickgoiran.com.au

8 April 2020

Hon Matthew Swinbourn MLC
Chair, Standing Committee on Environment and Public Affairs
Harvest Terrace, Parliament House
PERTH WA 6000

Dear Chairman,

PETITION No 144 – POST 20 WEEK ABORTIONS

I refer to your letter dated 12 March 2020. The previous petitions listed in your letter are not related to the subject matter of Petition No. 144 which is requesting an inquiry into the removal of the only reporting mechanism that existed to ensure Post 20 week abortions were not being performed for discriminatory reasons.

Legislation

On 20 May 1998, WA Parliament amended the Health Act 1911 to legalise abortion in Western Australia. Regarding late-term abortions, that law states that the abortion is justified if:

2 medical practitioners who are members of a panel of at least 6 medical practitioners appointed by the Minister..., have agreed that the mother, or the unborn child, has a severe medical condition that, in the clinical judgment of those 2 medical practitioners, justifies the procedure.¹

Parliament is entitled to know the numbers and reasons for these abortions that are justified by the panel of medical practitioners on the principle that Government ought to be transparent and accountable. Termination of babies who may be discriminated against because they have a disability, is a matter of public interest.

Reporting mechanism

In 2015 the then Minister for Health, Hon Kim Hames MLA conceded that a new reporting mechanism was required and requested a report be prepared by the Executive Director of Public Health (EDPH) reporting on the gestation and reason for termination for all post 20 week terminations (Appendix 1). This report was prepared for the years 2014/15 and 2015/16.

On 17 November 2017, Hon Roger Cook MLA, the current Health Minister discontinued this report and deemed that it was no longer required (Appendix 2).

Reasons for abortion

Since that time, the answers provided to me in response to Questions on Notice asked in Parliament have been vague and the information has been inconsistent and incorrect.

An example of this is the answer to QON 111 given on 12 September 2017 when I asked:

¹ Section 334(7) Health Act 1911

How many abortions had been approved at 20 weeks gestation or later with the justification for the abortion given as 'Trisomy 21' between 1 July 1999 and 31 December 2016?

The answer stated that:

Due to changes in documentation processes implemented in 2014, information is only available for cases in 2015 and 2016 (Appendix 3).

Only after expressing my outrage in a members' statement on 13 September 2017, was the information later corrected on 10 April 2018 (Appendix 4). I then discovered that:

Since 2002, when the form was changed, there have been **43 abortions** where Trisomy 21 has been entered in free text in a response to 'Reason for termination of pregnancy'.

Need for an inquiry

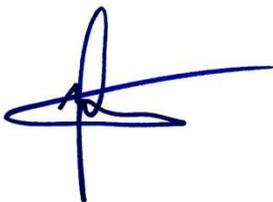
Whilst the petitions you listed in your letter of 12 March 2020 have abortion as a common thread, it is important to note that this petition is about an entirely new issue that has not been raised in those previous petitions.

Even the answer in parliament on 10 April 2020 should be sufficient prima facie evidence to demonstrate that abortions at 20 weeks gestation or greater are being performed for conditions that are not a 'severe medical condition that justifies the procedure' but for unjustified discriminatory reasons. Our world has moved on since 1998 and since 2012 we now have World Down Syndrome Day officially recognised by the United Nations.

There is currently insufficient Ministerial oversight, reporting and transparency to assure those in Government and in Opposition that this is not the case and I urge the Committee to see that it is appropriate for an inquiry into this matter to establish a transparent reporting mechanism for Ministerial oversight over these panel decisions that have involved disability discrimination at a systemic level.

I look forward to hearing from you.

Yours sincerely,



Hon Nick Goiran MLC
Member for the South Metropolitan Region
Shadow Minister for Child Protection; Prevention of Family and Domestic Violence; Commerce
Secretary to the State Parliamentary Liberal Party



**Deputy Premier of Western Australia
Minister for Health; Tourism**

Our Ref: 25-43964

E-MAILED
27/2/15

Hon. Nick Goiran, MLC
Member for the South Metropolitan Region
Suite 2, 714 Ranford Road
SOUTHERN RIVER WA 6110

Nick
Dear Mr Goiran

I write with regard to your letter of 23 December 2014 in which you presented a number of proposals regarding post 20 week terminations and in particular the issues of reporting, oversight, review and communication.

With regard to reporting, an important outcome of my meeting with the Panel was that the Executive Director of Public Health (EDPH) will prepare an annual report in consultation with the Panel reporting on the gestation and reason for termination for all post 20 week terminations and provide that report to the Minister for Health.

The EDPH proposes to provide me with the first annual report in August 2015 in order to capture the data collected for 2014-15. I therefore do not think it necessary to make a regulation to give effect to this agreement.

In relation to oversight, you have proposed that the Perinatal and Infant Mortality Committee investigate all post 20 week abortions and that the EDPH direct the Committee to undertake those investigations.

I am advised that legal advice received from the State Solicitor's Office is that the role of the Committee is to prevent stillbirths and perinatal deaths; the Committee does not have statutory authority to review terminations; and the EDPH cannot direct the Committee to inquire into terminations.

In relation to review, you have proposed that a review be undertaken after the next report from that Committee is received for the purposes to assess the effectiveness of the new reporting and oversight regimes. As I have noted above, the Committee is not authorised to investigate post 20 week terminations. However, the EDPH's annual report due in August 2015 will provide an opportunity to assess the new arrangements.

Finally, with regard to communication, as you will be aware there has already been substantial communication in relation to post 20 week terminations. I believe both major parties support the current provisions of the Health Act 2011 relating to the termination of pregnancy. I do not believe it would presently be timely or beneficial for me to make a Ministerial statement to the Parliament on this matter.

I suggest that we await receipt of the EDPH's first annual report is delivered in August following which time we can meet to discuss the results and make plans on next steps.

Thank you for your ongoing interest in this matter.

Yours sincerely



Dr Kim Hames, MLA
DEPUTY PREMIER;
MINISTER FOR HEALTH

27 FEB 2015

0185 940 1111



Government of Western Australia
 Department of Health
 Purchasing and System Performance

RECEIVED
 DEPARTMENT OF HEALTH WA
 ID: 3729
 16 NOV 2017
 PERFORMANCE ACTIVITY &
 QUALITY DIVISION
 DATA INTEGRITY DIRECTORATE

RECEIVED
 16 NOV 2017
 Public Health Div

Ministerial Memorandum

TO:	Dr D J Russell-Weisz DIRECTOR GENERAL [REDACTED] <i>17/11/18</i>	DATE: 16 November 2017
VIA:	Professor Tarun Weeramanthri ASSISTANT DIRECTOR GENERAL PUBLIC AND ABORIGINAL HEALTH DIVISION	REF: F-AA-51264-7 <i>16.11.17</i>
FROM:	Tony Satti DIRECTOR DATA AND INFORMATION [REDACTED]	
SUBJECT:	PROVISION OF CONFIDENTIAL REPORT TO THE MINISTER OF HEALTH ON INDUCED ABORTIONS	

Please find attached Ministerial Briefing Note for your consideration and referral to the Minister's Office.



Tony Satti
DIRECTOR, DATA AND INFORMATION
INFORMATION AND SYSTEM PERFORMANCE DIRECTORATE

BRIEFING NOTE

ISSUE

PROVISION OF CONFIDENTIAL REPORT TO THE MINISTER OF HEALTH ON INDUCED ABORTIONS

BACKGROUND

- In 2014 the then Minister for Health requested a confidential report on Induced Abortions of 20 weeks or more gestation using information collected on the regulated Form 1 Notification of Abortion.
- This confidential report has subsequently been provided for financial years of 2014/15 and 2015/16. The report includes "Reason for Abortion text" which describes the medical condition of the foetus or that of the mother.
- These conditions are often rare and potentially recognisable to individual circumstances. This information is sensitive and should the Report be made public, and in particular if details of specific cases are revealed or discussed, its content could be distressing to the families involved and their healthcare providers.
- Aggregated information is publically available in the form of a Triennial Report on Induced Abortions, and through answers to parliamentary questions.

CURRENT SITUATION

- Multiple requests to the Minister of Health have been made to make this confidential report public.
- The reports are considered confidential because they contain medical information, such as diagnosis of rare conditions, for individual patients.
- The disclosure of such specific information increases the risk of identification of individuals.

RECOMMENDATION/ACTION

The Director General provides this Briefing Note to the Minister for Health so that the Minister can advise the Chief Health Officer of his preference in relation to the following options:

- Option 1: Continue the Confidential Report of Induced Abortions in exactly the same format as previously produced.
- Option 2: Continue the Confidential Report of Induced Abortions excluding the "Reason for Abortion text".
- Option 3: Discontinue the Confidential Report of Induced Abortions.

FOR DECISION

Ref 4-106254-

Prepared by: Tony Satti
DIRECTOR
DATA AND INFORMATION
INFORMATION AND SYSTEM PERFORMANCE

Date: 16 November 2017

Sign off: Professor Tarun Weeramanthri
ASSISTANT DIRECTOR GENERAL
PUBLIC AND ABORIGINAL HEALTH DIVISION



12/14/17 Deputy Premier
Suggest this is raised @ a MTH-Dott meeting c Tarun Weeramanthri in attendance - if you wish a briefing on this. Yes, please list for MTH/Dott meeting

Sign off: Dr D J Russell-Weisz
DIRECTOR GENERAL

Approved

Not Approved

Noted

Comments:



Signed _____
MINISTER FOR HEALTH

Date 10/12/17

Please implement option 3.



3/2/18 2

HEALTH — ABORTION — TRISOMY 21

111. Hon Nick Goiran to the parliamentary secretary representing the Minister for Health:

How many abortions were approved at 20 weeks gestation or later with the justification for the abortion given as “Trisomy 21” between 1 July 1999 and 31 December 2016?

Hon Alanna Clohesy replied:

I am advised that:

A Panel appointed by the Minister for Health considers applications for induced abortions at 20 weeks gestation or more. Due to changes in documentation processes implemented in 2014, information is only available for cases in 2015 and 2016.

The Panel did not approve any post 20 week abortions for Trisomy 21 for the calendar years of 2015 and 2016.

ABORTION — TRISOMY 21

650. Hon Nick Goiran to the parliamentary secretary representing the Minister for Health:

How many abortions were performed at 20 weeks gestation, or later, with the justification for the abortion given as “Trisomy 21” between 1 July 1999 and 31 December 2017?

Hon Alanna Clohesy replied:

The reporting of post-20 week abortions can be from two sources:

A panel appointed by the Minister for Health considers applications for induced abortions at 20 weeks gestation or later. The panel provides “approvals” and collects information to explain its decision making. Due to changes in its documentation process implemented in 2014, information is only available for cases from November 2014 onwards.

The Abortion Notification System Data Collection held by the Department of Health which includes details collected via a “Form 1” for each abortion “performed”. It has, since 2002, included a data element described on the Form as “reason for termination of pregnancy” which provides clinicians with the opportunity to tick one of four nominated reasons. If the reason of “Actual fetal abnormality” is ticked, there is an instruction “Specify if known” and the response to this is provided by the clinician in free text. Note that the version of the Form 1 used from 1999 to 2002, did not include a data element on reason for the termination of pregnancy.

The response to the question has been provided from both sources:

Ministerial Panel:

The panel has approved less than five post 20 week abortions where the explanation for the abortion was given as ‘Trisomy 21’ since November 2014 to 31st December 2017.

Abortion Notification System data:

Since 2002, when the form was changed, there have been 43 abortions where trisomy 21 has been entered in free text in a response to “Reason for termination of pregnancy” in the Abortion Notification System Data Collection. When the “Reason for Termination of Pregnancy” of “actual fetal abnormality” is selected, free text is requested on the form via the instruction “specify if known.” In some cases, more than one abnormality is specified, including when trisomy 21 is referred to. For example the actual fetal abnormality noted is “complex cardiac condition in the presence of trisomy 21”.

Note: Health information is considered identifiable when it either directly identifies an individual or has the potential to indirectly identify an individual based on a combination of identifiers or based on small cell sizes. A cell size is considered small if the value is less than 5. Accordingly the exact response to the answer in relation to the Ministerial Panel has not been provided.