



Hon Nick Goiran MLC

Member for the South Metropolitan Region

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24 August 2011

Hon Brian Ellis MLC
Chairman
Standing Committee on Environment and Public Affairs
GPO Box A11
PERTH WA 6837

Dear Brian

Petition Against Late Term Abortions (Petition No. 127)

I note that on Tuesday 16 August the Hon Kate Doust MLC tabled a petition containing 4945 signatures addressing issues related to abortions performed at 20 weeks of pregnancy or later, including the disturbing matter of the fourteen babies that have, since 1998, been born alive following post-20 week abortions but apparently left to die.

I have asked a number of parliamentary questions on abortions at 20 weeks of pregnancy or later in an endeavour to shed some light on this practice.

The answers to my questions on notice 3843 and 3805 suggested a significant discrepancy between the number of approvals given by the Ministerial panel for abortions at 20 weeks of pregnancy or later and the number of abortions at 20 weeks of pregnancy or later reported to the WA Abortion Notification System.

This discrepancy led me to an exchange of correspondence with the Hon Dr Kim Hames MLA, Minister for Health. For the benefit of your committee I have enclosed copies of my letters dated 30 June 2011 and 9 August 2011 and the Minister's replies dated 2 August 2011 and 22 August 2011.

The Minister's letter of 22 August 2011 gives rise to further matters of community concern about the practice of abortion at 20 weeks of pregnancy or later. It appears that abortions are being performed at least as late as 30 weeks of pregnancy with a total of 26 abortions at 28-30 weeks of pregnancy reported for 1998-2010.

Furthermore three abortions at 20 weeks of pregnancy or more are reported as being for "suspected fetal abnormality". As section 334(7) of the Health Act 1911 limits abortions at 20 weeks of pregnancy or more to those situations where "the mother, or the unborn child, has a severe medical condition that, in the clinical judgment of ... 2 medical practitioners, justifies the procedure" it is difficult to see how a "suspected" fetal abnormality meets this legal test which requires that the child "has" a severe medical condition.

The total number of abortions performed at 20 weeks of pregnancy or more from 1998-2010 is reported as being 464 with an average of 40 for the past three years (2008-2010). On reviewing the Hansard debate on the bill that legalised abortions at 20 weeks of pregnancy or later I see that the proponents of the bill gave assurances to the Legislative Council that the change in the law would not lead to an increase in the number of such abortions being performed annually. The proponents reported that between six and fifteen such abortions were performed annually. It is obvious from the current statistics that these assurances were misplaced. (Hansard 1 April 1998, p. 1207)

During debate on the 1998 abortion bill assurances were also given by the then Attorney General the Hon Peter Foss MLC that in the event that a child was born alive following an attempted abortion the full criminal law on homicide would apply from the point at which the child was delivered alive. He made reference to the provisions of the Criminal Code dealing with homicide by those with the duty of providing the necessities of life failing to do so. (Hansard 1 April 1998, p. 1205)

The petition refers to the fate of the fourteen children born alive following abortions after 20 weeks of pregnancy none of whom, thanks only to the persistent questions asked by the Hon Ed Dermer MLC, we now know received resuscitation or any other treatment at all.

These deaths are apparently excluded from investigation by the Perinatal and Infant Mortality Committee on the grounds that they followed abortions authorised by a Ministerial panel.

As evidenced by the almost 5000 signatories to the petition it seems there is deep community concern about these matters.

In my view, it should be a significant concern to the Parliament that 14 West Australians have been born alive and have not been provided the necessities of life. People's personal views on abortion ought not cloud this issue. I am convinced that most West Australians would be concerned about this issue which in effect could be an issue of systemic medical negligence.

As it happens I have already asked the Minister if he would support a Joint Select Committee into this issue. I have enclosed a copy of his response dated 22 August 2011 which I have received today. Regrettably, the Minister has limited his response to the circumstances of support services provided post-miscarriage and does not address this particular issue regarding the fourteen children left to die. But for your committee considering this petition, I had intended to reply to the Minister seeking support for a committee inquiry into this specific issue. I have deferred such action indefinitely given this would be unnecessary in the event your committee commences an inquiry.

I think it is essential that a thorough investigation of the matters raised in the petition be pursued and I urge the Environment and Public Affairs Committee to initiate such an investigation.

I would be happy to assist the committee by making a fuller submission in due course.

Having made mention of several presently serving Honourable members, I have as a courtesy copied them into this correspondence for their awareness.

Yours sincerely



Hon Nick Goiran MLC
Member for the South Metropolitan Region

Cc Hon Dr Kim Hames MLA, Minister for Health
Hon Kate Doust MLC
Hon Ed Dermer MLC



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30 June 2011

Hon Dr Kim Hames MLA
Minister for Health
28th Floor, Governor Stirling Tower
197 St Georges Terrace
PERTH WA 6000

Dear Kim

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NUMBER OF ABORTIONS 20 WEEKS AND OVER

I refer to my Questions on Notice 3843 and 3805 from April and May 2011.

In answer to my Question On Notice No. 3843 asked in the Legislative Council on 17 May 2011 "For each of the years from 1998 to 2010, how many abortions were performed following approval by the panel of medical practitioners appointed by the Minister, pursuant to 334 (7) (a) of the *Health Act 1911*?", the Minister replied in part that the number of such abortions approved by the panel in 2010 was 76.

In answer to my Question On Notice No. 3805 asked in the Legislative Council in on 6 April 2011 in which I asked, in part "For the calendar year from 1 January 2010 to 31 December 2010, what was the number of induced abortions over 20 weeks gestation?" The minister replied in part that "If abortions with 20 weeks gestation (the cut-off at which approval is required for abortion under section 334 (7) of the Health Act) are included, the answer is 45 (i.e. this is the number of abortions of 20 weeks or more gestation)."

On the face of it, there appears to be a discrepancy between these two answers. I would be grateful if you could review this matter and revert back to me with clarification on the apparent discrepancy.

I look forward to hearing from you.

Yours sincerely

Hon Nick Goiran MLC
Member for the South Metropolitan Region



Hon Nick Goiran MLC

Member for the South Metropolitan Region

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9 August 2011

Hon Dr Kim Hames MLA
Minister for Health
28th Floor, Governor Stirling Tower
197 St Georges Terrace
PERTH WA 6000

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Dear Kim

Thank you for your helpful reply to my letter of 30 June 2011 about an apparent discrepancy in the data on abortions at 20 weeks and later as given in the answers to my Questions on Notice 3843 and 3805 from April and May 2011.

Your suggestion that the apparent discrepancy may result from terminations of pregnancy not proceeding following approval by the panel is welcome. In 2010 this would mean that 31 of 76 approvals (40%) did not lead to a termination of pregnancy.

It would be helpful in trying to establish a more complete picture of abortions at 20 weeks gestation and later in Western Australia if you could supply me with the following statistics:

1. Abortions at 20 weeks gestation and later for each year 1998-2010 broken down by gestational week at termination.
2. Abortions at 20 weeks gestation and later for each year 1998-2010 broken down by the reason for termination of pregnancy as given at item 3 on Form 1 Notification by Medical Practitioner of Induced Abortion (*Health (Section 335 (5) (d) Abortion Notice) Regulations 1998*) including specific fetal abnormality where specified. (Note: If necessary due to small cell sizes data could be supplied in cumulated year ranges.)
3. Approvals given by the panel of medical practitioners appointed by the Minister, pursuant to 334 (7) (a) of the *Health Act 1911* for each year 1998-2010 broken down by reason for the approval. (Note: If necessary due to small cell sizes data could be supplied in cumulated year ranges.)

I also note your comment that changes have been made within WA Health to improve the data collections on abortion. I would welcome your advice on the detailed nature of these changes and why they have been made.

I look forward to hearing from you.

Yours sincerely

Hon Nick Goiran MLC
Member for the South Metropolitan Region



Deputy Premier of Western Australia
Minister for Health; Tourism

Our Ref: 25-21141

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

COPY


Dear Mr Goiran

Thank you for your letter of 30 June 2011 regarding an apparent discrepancy between the answers to your Parliamentary Questions on Notice No. 3843 and No. 3805.

The statistics used in the replies were obtained from two different sources within WA Health. Parliamentary Question 3843 was sourced from Panel approvals data, as per the specific reference to 334 (7) (a) of the *Health Act 1911*. Parliamentary Question 3805 referred to data from the Abortions Notification System.

With regard to the lower 2010 figure in Parliamentary Question 3805, the data provided was the data entered into the Abortions Notification System current at the time of the Parliamentary Question.

With regard to the data provided in PQ 3843, the Panel approvals data was used as the data source, since your question specifically referred to the Panel.

As stated in my reply to Parliamentary Question 3843, the numbers provided in that question is the number of approvals granted. No statistics are held on the number of cases when a termination did not occur following approval being granted, which would also lead to differences in the two figures.

Thank you for bringing this matter to my attention. I would also like to take this opportunity to advise that changes have been made within WA Health to improve the data collection on abortions.

Yours sincerely

Dr Kim Hames MLA
DEPUTY PREMIER
MINISTER FOR HEALTH

2 AUG 2011

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04 AUG 2011

BY: _____



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

Our Ref: 25-21936

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

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Dear Nick

Thank you for your letter of 9 August 2011 regarding your request for statistics of abortions at 20 weeks gestation and later from 1998-2010.

Data in relation to your request is provided below. Please note that data has been grouped in year ranges and gestational age due to size of counts.

Abortions at 20 weeks gestation and later for each year 1998-2010 broken down by gestational week at termination.

Year	Gestation		
	20-27 Weeks	28-30 Weeks	N
1998 - 2001	102	5	107
2002-2004	92	8	100
2005-2007	132	3	135
2008-2010	112	10	122
Total	438	26	464

Abortions at 20 weeks gestation and later for each year 1998-2010 broken down by reason.

Reason for Termination				No.
	Unknown	Other than foetal abnormality	Suspected foetal abnormality	
Year				
1998 - 2001	101	.	.	6
2002 - 2010	.	12	3	342
Total	101	12	3	348

A breakdown of Panels approval by reason is not available.

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24 AUG 2011

The Department of Health's Performance, Activity and Quality Division has implemented a quality assurance measure to compare the number of abortions reported through the Abortions Notification System with the number reported through the hospital inpatient collection, in order to cross-validate reporting in each.

Thank you for bringing this matter to my attention.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Kim Hames', written over a horizontal line.

Dr Kim Hames MLA
DEPUTY PREMIER
MINISTER FOR HEALTH
22 AUG 2011



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

Our Ref: 25-21757

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

COPY

Dear Nick

Thank you for your letter of 1 August 2011 regarding Swan Kalamunda Health Service and your suggestion to establish a Joint Select Committee to investigate the management of miscarriage and termination of pregnancy in Western Australian hospitals.

With regard to the recent event at Swan District Hospital, a rigorous investigation has occurred. Following this, a series of policy updates has been put in place and appropriate staff education has been provided across all disciplines of staff. I would be most willing to investigate the further case that you mention but I am unable to do so without the patients' details or consent. I would be pleased to receive this information from you or the patient concerned.

In your correspondence you refer to Questions on Notice 3806 and 3211, which both pertain to abortion procedures resulting in live births. As a point of clarification, I would like to emphasise that issues relating to miscarriage and terminations are very different.

I would like to assure you that Western Australian hospitals have a well-established perinatal loss service available to support women and their families in their time of loss and grieving, regardless of the circumstances. This service provides information and ongoing support for women and their families following the loss of their baby. The team comprises of obstetricians, midwives, paediatricians, pastoral care, social workers, perinatal pathologists and psychologists. When women have a later term miscarriage, a private funeral can be arranged. Hence I do not support the establishment of a Joint Select Committee as appropriate support is already available to women and their families in their time of loss.

Thank you for bringing this matter to my attention.

Yours sincerely

Dr Kim Hames MLA
DEPUTY PREMIER
MINISTER FOR HEALTH

22 AUG 2011

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24 AUG 2011

BY: _____