

Medical Treatment for Minors

Terms of Reference

In 1981 the Commission was given a general reference to examine the law relating to medical treatment for minors and report on the adequacy of existing civil and criminal law in Western Australia as to:

- (a) the age at which minors should be able to consent, or refuse to consent to, medical treatment;
- (b) the means by which such consent, or refusal of consent, to treatment should be given;
- (c) the extent to which, and the circumstances in which, the parents, guardians or other persons or institutions responsible for the care and control of minors should be informed of such consent, or refusal to consent, to treatment; and
- (d) the extent to which, and the circumstances in which, the persons referred to in (c) should be able to consent, or refuse to consent, to treatment on behalf of a minor.

Background of Reference

The Commission prepared a discussion paper on the subject in 1988.¹ The discussion paper provisionally suggested a statutory scheme that would allow mature children to authorise their own medical treatment, and give doctors immunity if they treated such children in good faith. Among particular cases of treatment considered by the Commission were contraception and sterilisation. The paper also dealt with other important issues, such as the special problems of handicapped, seriously and terminally ill children. Following the response to this paper, the Commission engaged Ms Mala Dharmananda to produce a research report on the subject of informed consent to medical treatment with the aid of a grant from the Law Society of Western Australia Public Purposes Trust and with the assistance of the Western Australian Council of Social Service. The research report was released in December 1992.²

Resignations of Commissioners and Research Officers involved in the reference, as well as the priority given to other projects, caused the production of the final report to be suspended in early 1993.

Reference Withdrawn

The reference was withdrawn in 1998. No recommendations had been made by the Commission upon the reference.

¹ A number of submissions received in response to the discussion paper referred to the question of sterilisation of children. As a result of these submissions and developments in the law following the release of the discussion paper, the Commission decided to divide the reference into two parts.

² M Dharmananda, *Informed Consent to Medical Treatment: Processes, Practices and Beliefs* (1992).