



Speech by

## Miss FIONA SIMPSON

MEMBER FOR MAROOCHYDORE

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Hansard 12 November 1999

### HEALTH PRACTITIONER REGISTRATION BOARDS (ADMINISTRATION) BILL HEALTH PRACTITIONERS (PROFESSIONAL STANDARDS) BILL

**Miss SIMPSON** (Maroochydore—NPA) (2.42 p.m.): The issue of professional conduct and providing health consumers with appropriate grievance mechanisms to deal with complaints is an important one. The Opposition will be supporting this legislation in principle, but it reserves the right to question the Minister as to the implementation process and the resources that will be allocated to ensure its workability. This is because the feedback that I have had from a range of professional organisations is that they are not opposed to these Bills. However, a number have expressed some disquiet as to whether a simpler model could have achieved the stated objectives and whether a greater number of the current deficiencies are more administrative in nature than legislative. Likewise, a lot of the success or failure of this new legislation actually resides in the implementation. It will be dependent on whether appropriate professional support is provided to the boards, with trained investigators, a streamlined process of handling complaints and a time commitment to resolving complaints that reflects the relative gravity of the complaint.

In reality, there is no evidence that the Government will provide appropriate additional resources to establish this new process for the training of staff and board members. The complaints procedure actually involves more double handling and is procedurally more complex. In addition, I have some very real concerns that with the passage of the new legislation there will be a higher expectation as to what the system may deliver in practice and that a backlog such as that experienced by the Health Rights Commission is likely to be experienced here. There is currently a two-year backlog in investigations at the Health Rights Commission, and for some matters it is even longer. Given the operational reviews in recent years, the commission could hardly become more efficient.

I support the work of the Health Rights Commission. However, I wish to note that I do not believe it is resourced to a level to satisfy public expectation, which in turn, unfortunately, often affects public confidence. Yet I understand that the commission probably will handle only about a quarter of the potential investigations which the boards will have to consider under this new system. How many investigators does the Minister envisage will be necessary to meet this demand? Furthermore, as the grounds for pursuing complaints will be far wider than those currently considered by the boards, how does the Minister believe this will impact upon the workload of these new investigators? Similar to the position at the Health Rights Commission, I believe that a danger for the new system for a scrutinised standard of registrants will be that resources will not match public expectation and public confidence may, ironically, be more eroded as a consequence. I sincerely hope that I am wrong in this matter, but it is a concern.

I think it is appropriate to quote from the 1998-99 Health Rights Commission annual report, in which some comments were made about the number of complaints it is now processing. Even though it has improved its efficiency in dealing with these matters, it has had quite an increase in demand. Page 3 of Ian Staib's review states—

"The 1998/99 financial year saw the benefits of the new strategies introduced during the previous year. The number of new complaints opened increased by some 30 percent on the previous year and the number of complaints closed increased by approximately 40 percent. During 1998/99, 1,210 new complaints were opened, compared with 930 in the previous year.

One thousand two hundred and ninety five complaints were closed during the year under review as compared with 940 in 1997/98."

It is processing more complaints, but it has experienced an incredible upsurge in the number of people accessing its services. In his report, the commissioner goes on to note the need for resources and to reflect upon the impact of this legislation. He states—

"The Health Rights Advisory Council met on four occasions during the year. It provided substantial support and advice in relation to the legislative proposals. The Council made two submissions to the Minister supporting the Commission's position in respect of the legislation. In particular, the Council has expressed its concern at the need for the Commission to be appropriately resourced to meet the additional workload anticipated to be generated by the legislation."

I draw this to the Minister's attention, because I would like to hear what she has to say about what increase in resources there will be for the Health Rights Commission so that it is able to meet the demands of this new process.

I wish also to hear from the Minister about what the cost implications will be for the Government and health practitioners. It is apparent that there has been a degree of cost shifting to the health professionals. This model places a complex framework over the top of the professions and requires them to be self-funding, if the Minister approves certain fee increases, and legislates a wider complaints mechanism for consumers to utilise, which the professionals will be responsible for delivering and paying for, with the exception of the tribunal and the panels, which will be Government funded.

The balance between a professional's responsibility and his or her rights and those of consumers is important. The Government has an unfortunate tendency of legislating grievance mechanisms that inevitably penalise those who do the right thing by making them pay for the mistakes of those who do not. Similarly, it is not satisfactory simply to have a mechanism for consumers to lodge a grievance if that issue cannot be dealt with in a reasonably expeditious way. There needs to be a balance. If professional standards are to be supported by a legislative framework—a framework the professions pay for—the Government should strive not to make the process an unwieldy beast of burden which will let down both professionals and consumers awaiting a timely outcome. I am not convinced that this fairly complex system of various grievance tiers could not have been far more streamlined.

However, another issue raised by stakeholders at this time is the lack of industry specific legislation which is currently being drafted to complement the legislation that we are debating today. Stakeholders have raised concerns such as definitional issues to do with core practice. However, because they have not yet seen those 13 pieces of legislation which will outline the standards to which they have to perform, it means their scrutiny of these machinery Bills that enforce those standards is inhibited.

I acknowledge that there are a number of points of merit in the legislation, particularly the stated objective of achieving a system which delivers a uniform process in relation to the grounds for disciplinary action, the adjudicative processes or the sanctions that may be imposed where a registrant is found guilty of misconduct. Once again, aside from some necessary legislative changes to standardise certain powers and functions, much could have been achieved in terms of uniformity of decisions through a well resourced office that provided high-level professional and consistent advice to the boards about their investigative processes and determinations and with the development of some uniform guidelines for operations.

I also wish to refer to Justice Fryberg's submission to the Government dated 4 March 1999—comments which were limited to issues impacting on the operation of the proposed tribunal or Supreme Court. He notes the need for a set of rules and procedures, asking what work has been done. I reiterate that I would appreciate it if the Minister could outline the status of such a set of rules and what resources have been set aside to create them.

The benefits of the proposed law are that non-medical registration boards will have the power to immediately suspend or impose conditions on a registrant where there is an imminent risk to the life, health or safety of a person. I support them in principle, although I have some concerns as to the notification and the natural justice aspects and how natural justice for the non-medical registrants will be protected. An improvement in regard to the Health Rights Commission is that the Health Rights Commissioner will now have the discretion to refer out of time complaints involving inappropriate professional standards or issues of misconduct to the relevant boards. The commissioner will also now have the power to refer complaints to other bodies at the conclusion of assessment.

I touched before upon the question of increased costs for health practitioners. I refer to the annual reports of various boards—and this is a similar statement across the various boards. I have taken this excerpt from the dental board. It states—

"At the close of the reporting period the recommendations of the operational audit report were awaiting decision by the Minister for Health. If approved, the recommendations would result in substantial fee increases to commence in the year 2000 or 2001."

The annual reports quoted a benchmarking exercise which identified the need for a substantial increase in fees to enable the board to become self-funding. I would like the Minister to explain what the increased costs to practitioners will be in light of the fact that the review was undertaken by the audit and operational review branch with regard to the changes proposed in this legislation. I table a copy of some of the proposed fee increases.

For example, osteopaths currently pay \$213 annually. They could face a substantial increase in yearly fees to between \$379.74 and \$491.15. Physiotherapists currently paying \$55 per year could face new fees ranging from between \$119.16 and \$133.45. In this report, options for increasing fees for the health professionals range from between 16% to a maximum of 142%. I would appreciate it if the Minister could outline just what these increases that she is going to sign off on would be, because these are the recommendations of her audit branch in light of this legislation that she has before the House.

I note that the cost of the panels and tribunal will be borne by the taxpayer. The Explanatory Notes say that Queensland Health will meet the structural costs related to the independent adjudicative bodies of approximately \$245,000 per annum, including the provision of registry support to the tribunal. I have already referred to the Health Rights Commission's request for additional resources and its concerns in this regard. I reiterate that I would like to hear the Minister's answer as to what additional support there will be for the Health Rights Commission as requested in that annual report.

I note that another express purpose of this Bill is to widen the scope of issues about which consumers or any entity can lodge complaints against registrants. Some concerns were expressed by health practitioners that professional standards were not identified in the Bill's dictionary and that, by moving the standard from "substantially" below to a lesser standard, that could have a wider than intended scope of impact.

I would certainly be interested to hear the Minister's explanation as to the implementation process and the training of staff on the new laws, particularly with regard to the number of additional investigators needed to implement the legislation. I stress these points because, unfortunately, we saw this in relation to the Radiation Safety Bill. When I queried the Minister during the debate on that legislation as to what additional resources and training was available—particularly what additional resources were available—given the small size of the unit and the increased size of their task, the Minister said they had ample resources and it was not a problem. Yet we saw during the Estimates process that, when I questioned the Minister as to why there had been a failure to meet their target number of audits and inspections of radioactive material storage facilities, the Minister said that those people had been tied up in writing the regulations.

It was ironic that we had legislation which was not fully implemented at the time of the Estimates process—months after it had been passed by Parliament—with all the fanfare of the Minister saying that this was going to provide greater safeguards in regard to how radioactive waste materials would be stored, yet the Minister failed to supply the necessary resources to that unit in order to allow it to keep doing what it was there to do, that is, to monitor those very facilities to make sure that people were storing those resources properly. But no, they were busy writing the regulations.

That is why I do not have a lot of confidence that the Minister has got it right with regard to the resourcing of this particular structure. I am yet to see her really demonstrate that the appropriate funding has been made available. She misled the House with regard to the Radiation Safety Bill and the resourcing that was needed to enable the provisions of that particular Bill to be properly implemented without compromising the basic fundamental role of the radiation safety people, which was to go around and check that those materials were safely stored.

In summarising the new process, it is a three-tier process; there is the board, the panels and the tribunal. The various disciplinary actions that can be implemented by those bodies is set out in the legislation. The most serious of the complaints—which could result, for example, in someone being struck off or suspended—are to be dealt with by the tribunal. As I mentioned earlier, I sincerely hope that the process works better than the structure as it appears on paper. I know that there is a lot of goodwill among the staff who are involved in this process to try to make it work well, but I reiterate my concern about the fact that it is a fairly complex process and involves a lot of double handling in regard to some of the consultative mechanisms. At the end of the day, it is a bit like designing a horse by committee: you end up with a camel.

I think the proof of the pudding will be in the size of the fees that will be passed on to health practitioners. As I mentioned before, it is unfortunate that those who do the right thing—the majority of people who are practising out there in the various health professions—are the ones who end up bearing the cost of the minority who do not. Obviously, the majority of people want to see their

professional standards upheld, but they also want to make sure that they do not find themselves caught in a complex grievance process in which, at the end of the day, consumers' concerns may have to wait years to be resolved, as we have seen with regard to the Health Rights Commission. That is ultimately a matter of great concern. There must be appropriate grievance mechanisms in place, but the consumers are not going to win out if the process is complex and expensive to administer and they have to wait many years for an outcome.

I pose those questions in regard to what resources the Minister is going to make available. I still have those concerns in regard to the Health Rights Commission because, as I have outlined, a number of matters have been held over for several years. I understand that in the report reference is made to some matters from 1994 not even being resolved. These are issues that are creating a lot of uneasiness for consumers who want to make sure that their matters are being dealt with in an appropriate way. I know that the staff are doing their best, but at the end of the day, sometimes the systems let them down and certainly the resourcing issues make that very difficult.

To reiterate, I support the upholding of framework that supports good, professional conduct and that provides health consumers with appropriate grievance mechanisms. It is really a case of waiting and seeing how many years some of those consumers may have to wait in order to have their grievances pursued under this new model.

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