



Speech by

Hon. WENDY EDMOND

MEMBER FOR MOUNT COOT-THA

Hansard 11 June 1999

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

Hon. W. M. EDMOND (Mount Coot-tha— ALP) (Minister for Health) (10.42 a.m.): I move—

"That the Bills be now read a second time."

The Health Practitioners Registration Boards (Administration) Bill and the Health Practitioners (Professional Standards) Bill represent the first stage in the comprehensive reform of 12 Acts and 15 pieces of subordinate legislation which will deal with the registration of health practitioners in Queensland. These Bills address, in a generic way: the provision of administrative support to the health practitioner registration boards; the making of complaints about registrants; the investigation of complaints regarding registrants; the discipline of registrants; the management of impaired registrants; and the relationship between registration boards and the Health Rights Commission.

Later this year, following consultation with key stakeholders, the Government will introduce a further 13, profession-specific, Bills addressing other aspects of the regulation of registered health practitioners. The administration Bill and the professional standards Bill are the outcome of an unprecedented public consultation process, involving thousands of individuals and organisations over a six-year period.

During the course of the review of health practitioner legislation, four public consultation documents have been released, over 5,000 copies of these documents have been disseminated throughout the community and over 450 public submissions have been considered. In addition, intensive consultation has occurred with registration boards, peak professional associations, unions, health consumer groups, the Health Rights Commissioner and various expert advisory bodies. Most recently, key stakeholders were provided with an opportunity to comment on the workability of exposure drafts of these Bills. The legislation being introduced today incorporates various refinements made to address issues raised during that process.

As a result of the comprehensive consultation process undertaken there is a high degree of support for the Bills. The core principles underscoring the development of this legislation are: the protection of the public; accountability; fairness; peer and public involvement; and efficiency and effectiveness. The Bills reflect a careful balancing of various views and interests against these core principles.

Overall, the Bills have a strong emphasis on public interest and this has been applauded by health consumer groups in particular. The administration Bill and the professional standards Bill are at the leading edge of reform of occupational regulation legislation and they reaffirm the State's responsibilities in respect of the regulation of registered health practitioners. The Government anticipates that these Bills will provide a new benchmark for health practitioner legislation throughout Australia.

The Health Practitioner Registration Boards (Administration) Bill is a small but significant component of the new health practitioner legislation. The Bill reforms the provision of support services

to the boards to ensure that the boards are provided with responsive and appropriate administrative and operational support by an agency fully independent of Queensland Health.

The Bill establishes an independent statutory body known as the Office of Health Practitioner Registration Boards. The core business of the office will be to provide support services to the boards in accordance with service agreements negotiated with each board. The office will be established as a public service office under the Public Service Act 1996 and will operate independently of Queensland Health.

The office will be controlled by an executive officer who will be responsible and accountable for ensuring that the office functions efficiently and effectively. The executive officer will have all the powers necessary or convenient to ensure that the office delivers its core business. The staff of the office will be employed under the Public Service Act and will have status as public service employees.

The new administrative arrangements will provide autonomy and flexibility for the boards in staffing and other organisational decision-making processes. Through the mechanism of service agreements, the boards will have greater ability to negotiate flexible and appropriate staffing and administrative arrangements to meet their particular needs. Under the new arrangements, the executive officer will have the ability to develop and implement appropriate policies and protocols and to expedite the creation of positions and appointment of staff to service the boards' needs under the service agreements within the budgets available to the boards. A combined administrative structure offers significant advantages to the boards.

These arrangements achieve economies of scale, especially for smaller boards, which would face higher costs in establishing and maintaining autonomous administrative arrangements. The arrangements also ensure consistency in policy development and implementation, and in common administrative practices, for example, in the processing of registration applications and renewals. A combined administrative structure will also provide mutual support for boards during the implementation of the new health practitioner legislation.

For these reasons, participation by all boards in the new administrative arrangements is mandatory, although the Bill enables the Minister to approve alternative arrangements if a board's reasonable needs cannot be met by the office. The Bill implements innovations in the provision of administrative and operational support to the boards. The new administrative arrangements will ensure the boards receive the support necessary to help them function efficiently and effectively as key components of a regulatory system aimed at protecting the public.

The Health Practitioners (Professional Standards) Bill is an important new consumer protection law containing a range of reforms which provide for a fairer, more accountable, flexible and integrated approach to deal with unsatisfactory professional conduct by registered health practitioners. The Bill replaces the disciplinary provisions in 11 health practitioner registration Acts and makes consequential amendments to the Health Rights Commission Act 1991 and various other Acts.

The Bill addresses a number of deficiencies in the existing laws related to the discipline of registered health practitioners. The Government considers that the disciplinary provisions of the existing Acts compromise the State's ability to protect the public in that—

- the grounds for taking disciplinary action against registrants are too narrow;

- the disciplinary actions which may be taken against registrants are limited and inflexible;

- the boards' investigative powers are inadequate or non-existent;

- the boards' powers to respond to imminent risks posed by registrants to the life, health or safety of others are generally inadequate; and

- the Acts do not dovetail with the Health Rights Commission Act 1991, creating the potential for delays and for professional standards issues to be overlooked.

Each of these issues is effectively addressed by the Bill.

In addition, the Government is concerned that the current Acts do not comprehensively set out the rights of registrants during the investigative and disciplinary processes or provide complainants with any rights during disciplinary proceedings. For example, complainants currently have no right to attend disciplinary proceedings which are triggered by their complaints. The Bill sets new standards in respect of the rights of registrants and complainants.

The Government also considers that the existing Acts are inflexible in that they provide only one process for dealing with disciplinary matters. With the exception of the medical profession, registration boards can currently only deal with disciplinary matters by way of an inquiry. This means that all disciplinary matters, regardless of their seriousness, are dealt with in the same way. Finally, the

disciplinary provisions of the current Acts are not uniform. They do not meet community or professional expectations, or conform with current drafting practice or fundamental legislative principles.

The Government has responded to health consumer demands for greater involvement in the regulation of the professions by including members of the public and the professions on all disciplinary bodies established under the Bill. The Government has also responded to concerns about the limitations of the existing disciplinary arrangements by expanding the grounds for complaints and the grounds for disciplinary action against registrants. Consistent with recent reforms in Victoria, in the future, disciplinary action may be taken against any registrant whose conduct is below the standards considered acceptable by the profession or by the community.

In addition, the Bill broadens the range of sanctions which may be imposed where a registrant satisfies the grounds for disciplinary action. For example, the capacity to impose conditions is a significant innovation for health practitioner legislation in Queensland. This reform enables a disciplinary body to impose a sanction which will limit a registrant's activities to the extent necessary to protect the public. This is clearly preferable to the imposition of a more onerous penalty which, in some cases, could go beyond what is necessary to protect the community.

The Bill requires certain disciplinary actions to be recorded on the board's register and provides a discretion in respect of the recording of others. The Government considers that, in the absence of any competing public interest issues, the community is entitled to know the details of all conditions on a registrant's right to practise. The Bill also establishes a flexible three-tiered disciplinary structure which will enable matters to be heard in a way which is appropriate to their severity. For example, minor matters will be dealt with by way of an informal but inquisitorial process by the registration board themselves.

The boards' powers to deal with these minor matters will be limited to cautioning, counselling and reprimanding registrants or entering into voluntary undertakings. The professional conduct review panels will deal with more routine disciplinary matters. The panels will have all the disciplinary powers of a board and an additional power to impose conditions upon a registrant's registration. It is intended that panels will operate in a relatively informal way and, where appropriate, a collaborative and redemptive way, with the objective of determining whether a registrant satisfies the grounds for disciplinary action and, if so, the sanction which should be imposed to achieve the objects of the Act.

The Bill provides that, for the first time, all serious disciplinary matters regarding registered health practitioners will be heard by a Health Practitioner Tribunal constituted by a District Court judge. This significant innovation will ensure that disciplinary matters are dealt with fairly by a totally independent adjudicator. This is a new jurisdiction for the District Court and this reform is evidence of the Government's commitment to the creation of a fair process for the protection of the community from misconduct by registrants. The tribunal will adjudicate all cases of sexual misconduct by registrants and other equally serious matters.

The Bill provides for disciplinary proceedings before the tribunal to be conducted in public unless there are special circumstances which warrant the proceeding or part of the proceeding being held in camera. While the Medical Assessment Tribunal has sat in public in recent years, there is no statutory requirement for this to occur. The Government considers that, unless there are special circumstances, it is in the public interest for all allegations of serious misconduct by health practitioners to be heard in public. Open hearings enhance public confidence in the regulation of the professions and have been effective in encouraging additional complainants to come forward. These additional complaints are often vital in securing appropriate disciplinary decisions.

The Bill provides, for the first time, a comprehensive approach to dealing with registrants who are impaired through alcohol or drug addiction or another mental or physical disability that affects their ability to practise. The Bill provides a two-stage process to deal with impaired registrants and the relevant provisions are designed to ensure a supportive and rehabilitative focus is available where this is appropriate. Importantly, all conduct which appears to provide grounds for deregistration or suspension, even if due to an impairment, must be dealt with by the Health Practitioner Tribunal.

This Bill also clarifies the respective roles and responsibilities of the Health Rights Commission and the registration boards and makes a number of amendments to the Health Rights Commission Act 1991 to address routine operational concerns raised by the Health Rights Commissioner. For the first time, there will be a coordinated and integrated approach to the management of health complaints about registrants. The Bill creates parallel grounds for complaint to the boards and the Health Rights Commission and requires consultation to occur in respect of various action decisions regarding registrants. These strategies will ensure that professional standards issues are readily identified and dealt with appropriately.

Under the new arrangements, the principal responsibilities of the commission will be the receipt and assessment of complaints about registrants and the resolution of disputes through conciliation. In addition, the commissioner will have an enhanced role in overseeing investigations undertaken by the boards. The boards will focus on the protection of the public by investigating and initiating disciplinary proceedings for unsatisfactory professional conduct. Importantly, the reforms to the Health Rights Commission Act 1991 in respect of registered health providers will enable the commission to more readily carry out its statutory function of overseeing, reviewing and improving the health system.

The Bill also addresses operational problems with the Health Rights Commission Act 1991. The problems addressed are—

- inefficiencies related to the receipt and consideration, and assessment phases of the Act;
- the lack of power to refer complaints to other bodies at the conclusion of assessment;
- the inability to take more than one action on a complaint; and
- the inability to split complaints involving multiple issues or respondents into component parts.

The Health Practitioner Registration Boards (Administration) Bill and the Health Practitioners (Professional Standards) Bill represent a milestone in the reform of the regulation of health practitioners in Queensland. The Bills enhance the regulation of the professions for the benefit of the community as a whole. The Government wishes to acknowledge the efforts of many individuals and organisations who have worked toward this important goal over the last six years. I commend the Bills to the House.
