Speech by

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CHIROPRACTORS REGISTRATION BILL
DENTAL PRACTITIONERS REGISTRATION BILL
DENTAL TECHNICIANS AND DENTAL PROSTHETISTS REGISTRATION BILL
HEALTH PRACTITIONERS LEGISLATION AMENDMENT BILL
MEDICAL PRACTITIONERS REGISTRATION BILL
MEDICAL RADIATION TECHNOLOGISTS REGISTRATION BILL
OCCUPATIONAL THERAPISTS REGISTRATION BILL
OPTOMETRISTS REGISTRATION BILL
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PHARMACISTS REGISTRATION BILL
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PODIATRISTS REGISTRATION BILL
PSYCHOLOGISTS REGISTRATION BILL
SPEECH PATHOLOGISTS REGISTRATION BILL

Miss SIMPSON (Maroochydore—NPA) (3.23 p.m.): The 14 associated health bills which are being debated cognately today are mostly machinery in nature, although the most controversial and more meaty detail concerning these health professions bills has been held over from inclusion in these bills. The opposition will be supporting most of these bills because in the main, due to the exclusion of the significant unresolved issues of core practices for the professions, these bills are uncontroversial. However, as I indicated publicly the last time these bills were tabled in the parliament before the election when a total of about 36 bills failed to be debated because Premier Peter Beattie said the government had finished its legislative program, the opposition is strongly opposed to a significant element of one of these bills, and that is deregulation of optometry practices.

In the Optometrists Registration Bill, the Beattie Labor government is pushing ahead with deregulation of ownership contrary to the wishes of the majority of this profession. As this is a cognate or amalgamated debate where none of the 14 health bills can be individually voted for or against, the opposition will instead be moving an amendment at the committee stage seeking to retain the current provisions of ownership by optometrists of their practices.

The opposition did oppose these bills being debated cognately the last time they were presented to the parliament because the Health Minister ignored the usual protocol of giving advice and briefings to the opposition prior to a cognate debate motion and instead provided a hurried, back-of-the-chamber verbal advisory session minutes before the motion, and that is contrary to parliamentary process.

The minister at that time claimed that there was nothing controversial in the 14 pieces of legislation and that everyone consulted was happy with the final draft of bills before the parliament. I note for the record that these drafts had never been released for public consultation—that is, the draft bills themselves as opposed to concepts of what was in the legislation. The draft bills had not been presented publicly previously and had only been released in confidential briefings to key stakeholder groups who were not allowed to keep copies, or so I was told by the groups I talked to.

The government used its numbers to ensure that a cognate debate would proceed. Upon examination of the 14 pieces of legislation after they were tabled in the parliament for the first time,

there was indeed a very controversial aspect to at least one of those bills, and that is the Optometrists Registration Bill. Furthermore, after the ensuing introduction of the legislation to the parliament, I was able to check details with one key stakeholder group, the Optometrists Association. It confirmed that it was not happy with the legislation pertaining to its profession because of the deregulation of ownership of professional practices. Thus, the National Party's amendment to maintain the legislative status quo with regard to professional ownership requirements is because of the concern of the majority of that profession as represented by their association. Contrary to what the minister said, it is controversial in optometry practices.

The issue of deregulation of optometry practices comes as a timely public debate because of the move by corporations into the health sector. Where some multinational corporations are already using loopholes to stretch the spirit of the law to expand their market share in optometry, there is no doubt that, given their powerful lobbying, they see the removal of ownership restrictions as important to increasing their influence at the expense of owner-operator optometry practices. I believe that it is a retrograde step for the Beattie Labor government to blindly support this push for deregulation, and I do not believe that the public benefit analysis accepted unconditionally by the government really took into account the impact of primarily profit and share market driven businesses in a state as large as Queensland where the expansion of their market share in larger centres will potentially shrink the number of services supplied in smaller centres.

The irony is that the Beattie Labor cabinet agreed to continuing restrictions on certain ownership provisions within the liquor industry but thinks that ownership restrictions in the health profession such as optometry are fair game to a deregulated marketplace. I am sure that optometrists will be thrilled to know that there are bottle shops that have restrictions on ownership while their professional standards, their businesses and their jobs do not have the same protection of law. The government's analysis for optometry deregulation was flawed as it stated that there would be savings to be made in running costs which would benefit customers in the future, even though this could not be quantified or verified and flew in the face of the fact of the current reality that existing optometry practices are on the whole bulk-billers, unlike other Medicare eligible health services.

There are no cost savings to the customer with regard to professional consultations as most customers do not pay a gap over the Medicare rebate and are in fact bulk-billed in the first instance. Deregulation will not deliver cheaper eye consultations with optometrists. As for the very separate issue of who can sell spectacles, the Optometrists Association did not object to this aspect of its business being legally open to other competitors. However, my comment is that the national competition review did not significantly separate the two issues of ownership as opposed to retailing of spectacles.

The concerns arising from this push for deregulation are more questions of standards of service that will be available and, in Queensland's case, access to optometry services in rural and regional Queensland. Also, there is concern about the falling number of optometrists providing access to pensioners and other health care card holders for the taxpayer subsidised spectacle dispensing program.

Having read the public interest analysis at the base of the government's decision to deregulate optometry, my comment is that there are some fairly obvious holes in the conclusions. Firstly—this is relevant to the issue being debated increasingly in other professional health practices—there is a difference between minimum acceptable standards and best practice standards. What I mean is that if someone is found to have practised badly then they have breached minimum standards and there will be a system under this act, as there was under the previous act, to take action against the practitioner. However, there is concern among professionals in the health care sector about what happens when ownership goes to a multinational company, to somebody who has customers to serve other than the health client before them—in other words, the share market driven customers, those who own a part of that business.

What measures have been applied to the issue of quality of service, level of equipment owned by practices, community access to services, particularly in rural areas, and the provision of public dispensing of government subsidised spectacles? It is clear from the minister's second reading speech that these issues have not been addressed. For example, the Health Minister would be well aware of the problems in recruiting and retaining optometrists to dispense public spectacles for those who are eligible. The numbers of optometrists participating in this public scheme had fallen to 331 in June 2000, from 400 as at July 1998.

Some of the corporate optometry chains I have talked to state clearly that they do not dispense publicly subsidised spectacles because they do not consider it cost effective. While not all optometrist-owned practices participate for the same reason, many in fact do. They have stated that, as cost pressures from more intense competition from the multinationals increase, they will have to withdraw increasingly from subsidising this service as well.

I am most concerned that the removal of any pretence of optometrist ownership and the increased dominance of multinational corporations in the marketplace will see fewer services travelling

into rural areas and a decline in the number of practices dispensing publicly subsidised spectacles. Ultimately one would have to ask who will be paying the price for that. It will be mainly those who are on lower incomes, who do rely upon the publicly subsidised spectacle scheme.

One estimate places current corporate ownership of the market at about 50 per cent, though other estimates place it slightly lower than this. There is still at least a notional involvement of optometrists in the ownership structure of the company, if not a controlling interest. The concern is that deregulating ownership, removing any ownership restriction, will see these large multinational companies aggressively seek to further monopolise the market, resulting in fewer independent, sole practitioner practices. The minister may argue that people have been operating in partial breach of the previous legislation, but that is a poor argument for defending the total deregulation with a new penalty if someone is coerced for practising badly or suboptimally.

The issue of corporate ownership of health practices is one not only for the federal jurisdiction but also for the state. I can well understand that there are benefits for general practitioners entering into a larger group practice, with the chance to defray practice costs and access locum back-up. The publicly listed corporate models go much further than that, offering a variety of other incentives, with a mixture of up-front payments and contracts with shared profits. The concerns are whether there may be subtle coercion brought by the corporate practice owners for doctors, and potentially other health practitioners, to alter their health decisions, particularly in regard to referrals to other related services owned by the same corporation. An example of this has been radiation and diagnostics in the case of GP practices. The link in ownership is called vertical integration.

I believe that there are real concerns to be considered and that professional boards may need new legislative tools to deal with the potential issues arising from corporatisation. Queensland is a relative newcomer to this process compared with some other states, but there appears to be a very rapid and aggressive push to corporatise health practitioners, particularly GPs, who have the ability to refer to the more lucrative diagnostic services.

I understand that one estimate puts the number of GPs in Western Australia employed by a corporation at one-third and in other states at about 20 per cent of the total number of GPs in those states. It is interesting that there have been concerns expressed in other jurisdictions about corporatised health practices, but Queensland's Labor Health Minister is actually making it easier for corporate takeover in the optometry profession by proceeding with deregulation.

One of the things lacking in the legislation before the House is a set of provisions relating to professional indemnity. Many of the professional organisations are in fact in favour of these sorts of provisions in order to provide a high level of consumer protection and care. While there are avenues through the professional boards, albeit the Health Rights Commission, to seek redress for grievances, there is a very real need for consideration of mandatory insurance coverage so that people have the ability to claim damages in the event that their practitioner does not have assets that are claimable in their names. I understand that that is an issue that has arisen.

It is interesting that governments will legislate for car owners to have third-party insurance so that there is protection for other people if they run into them; however, we have a situation whereby health professionals, including doctors, do not have to carry professional health insurance. Many good professionals do, but not all professionals do. If they do not belong to a professional association, there is no requirement for them to do so. I would certainly welcome the Health Minister's comments on this issue of professional indemnity. It would be a very practical way of providing a very real measure of consumer protection so that people can take action in the event that a health practitioner causes some damage.

I turn to the issue of core practices. As I mentioned earlier, these are the most controversial aspects of the national competition policy review in regard to the professions. At this stage the findings have not been presented to the parliament. I understand that there are continuing discussions. There is a great deal of concern among a lot of professions. The issue of core practice is to do with who can do what. For example, in relation to dentistry it would go to who can drill a hole in someone's tooth. Putting it very simplistically, it is about who has the right to perform certain acts upon a person in relation to a particular health practice.

There has been a review going on across all of the professions under national competition policy. It has been an ongoing process. We have before us an extensive array of machinery bills, but still we do not have the essence of what people can in fact do under these bills. The previous entitlements of these professions in relation to the tasks they can perform are still in place until that review is completed and the legislation comes into being.

I ask the minister when these issues will be resolved. There has been a lot of talk about the lengthy process of consultation and the lengthy process of bringing this legislation to the parliament, yet this issue of core practices remains unresolved. I know that that is a matter of great concern to a number of professions, who are most concerned about whether they will see an erosion of standards in

their areas, whether people will be pushing for minimum standards that do not necessarily reflect best practice. There is a difference between having a minimum standard and having safeguards in place that ensure best practice. There can be a world of difference between those two concepts.

I mention briefly some of the other aspects of the health professionals bills that we are considering here today. Chiropractors and osteopaths will be separated under the board provisions. While I understand that there has been some opposition to that in some quarters, it is something that has been very strongly advocated by the osteopaths. It has been very much their will that they have a separate board. In discussions they say that they are aware of the different cost structures they are likely to incur as a smaller profession, and they are willing to go down that particular path.

The issue relating to pharmacists and the restrictions on ownership of their professional businesses is one that is being resolved at the federal level and is not part of this bill. The existing provisions relating to ownership of a pharmacy are maintained within this legislation.

I refer to some of the aspects of the Health Practitioners Legislation Amendment Bill, which amends the Health Practitioner Registration Boards (Administration) Act and the Health Practitioners (Professional Standards) Act 1999. For the record, since the introduction of the Health Practitioners (Professional Standards) Act 1999, 37 amendments were made by this government last year, and the bill currently before us provides for a further 34 amendments to be made. So there has been quite a substantial number of amendments to the original bill since it was introduced to parliament only two years ago. I have some questions about the process that allowed that legislation to be introduced with so many subsequent amendments being necessary. Many of the amendments contained within last year's amending bill were to correct drafting errors.

I draw attention to one very interesting amendment in this bill. It was referred to in the minister's second reading speech delivered when this legislation was reintroduced to the parliament. I refer to clause 26, which inserts sections 385A to 385C into the act, making it an offence for a registrant to fail to notify the board within 30 days of a conviction of an indictable offence or an offence against a corresponding law, or the imposition of a disciplinary or other relevant action under a corresponding law. Also, a registrant who is a respondent to proceedings in court regarding negligence must not fail to notify the board within 30 days of the judgment in relation to those proceedings or any settlement of the proceedings.

As is noted in the explanatory notes, the requirement to notify of the settlement of proceedings for negligence matters is based on South Australian and Victorian legislation and was recommended by the Commonwealth's professional indemnity review. I can see the potential benefits in this amendment. There are issues which have failed to come before the relevant professional boards for scrutiny because they were settled out of court.

I believe that these issues require more public debate—not only those matters that are automatically referred to a board but also those matters about which the public is allowed to know. I understand that similar moves have been made in some parts of the United States. One can argue that sometimes these issues can be taken too far and that professionals and other people can be crucified in their professional lives by innuendo and not necessarily substance when they choose to settle out of court rather than taking the expensive option of protecting themselves in a court. There is also a very strong argument as to what is valid consumer protection and education—making people aware that someone has a track record of settling negligence actions out of court.

This bill provides for the board to be notified of certain matters relating to negligence issues, but it does not include a test that allows the public to know about that. We understand that there are times when people facing multiple court cases choose to settle out of court, but the public is not notified about that and they have no chance to respond. We need to have public discussion about whether or not the consumer is protected when there is a succession of settlements and matters are not brought to the attention of the public and about whether in fact the process provides enough protection to the public. The bill provides for the board to be notified of certain matters relating to indictable offences. However, it is interesting to note that there is nothing in the legislation which requires boards to notify police of an offence.

I refer to an article in the *Courier-Mail* of 7 April 2001 wherein it was highlighted that drug-addicted doctors who forge prescriptions and commit other criminal offences can potentially escape prosecution. A very worrying statement in that article was that the Medical Board currently conducts urine tests on 50 doctors detected abusing drugs such as pethidine and morphine and that one of the doctors who underwent testing for more than a decade is a senior Health Department official who advises the government on drug matters.

Mrs Edmond: That's totally wrong. You shouldn't rely on something you read in the *Courier-Mail*.

Miss SIMPSON: I would welcome the minister's response to that. It is obviously in the public interest. If there are people who have drug abuse issues and they are potentially in positions of

influence or in a position to give advice to whatever government and bureaucratic structure, we need to know who is making those decisions. Is any minister making a subjective decision, based upon this legislation, as to whether somebody is or is not a public danger? Is the board making that sort of decision and not taking into account the public interest—making the public aware of whether people have underlying issues that could compromise their decisions?

This issue highlights the need for scrutiny of any board decisions that are not referred to the police and where there is a prima facie case of someone committing an indictable offence. The Queensland Police Service is quoted as saying that it would expect the Medical Board to inform it of suspected offences. Health Minister Wendy Edmond is quoted as saying that she would only expect the board to advise police where there is a public risk or a public danger. As I said, I believe that that is too narrow. We need to look at the public interest.

Clearly, the issue of criminal offences by health practitioners not being referred to the police must be addressed by the government with a mechanism that is more accountable and transparent. There must be appropriate and accountable processes put in place to make sure that the police are informed and that matters are dealt with to guard the public interest and not dealt with purely in the interests of doing it behind closed doors where there is no independent means of making sure that it is indeed an appropriate process.

I will be addressing some other issues at the committee stage. I thank members of the legislative unit for their briefings on this issue. I know that some time has passed since the legislation was previously introduced into the parliament, but I welcome the opportunity to discuss some other issues in further detail at the committee stage.
