



Speech by

Neil Roberts

MEMBER FOR NUDGE

Hansard Wednesday, 1 September 2004

PROFESSIONAL STANDARDS BILL

Mr NEIL ROBERTS (Nudgee—ALP) (9.31 p.m.): In rising to speak in the debate on the Professional Standards Bill, before I make my contribution I want to respond to a couple of things that the member for Callide said. The one thing on which I agree with him is that community groups in particular are suffering the burden of increased public liability premiums. That is something that members on both sides of this House have been raising for some time and advocating on their behalf.

He then went on basically to criticise the Queensland government for what he perceived was our lack of effort in trying to address this problem. In effect, he is criticising his colleagues in the federal government at the same time. The initiatives that have been put in place at both the state and federal level have been jointly determined and agreed at ministerial council level by both federal coalition ministers and state ministers. The member for Callide is, in a sense, directly criticising his federal colleagues.

Mr Wilson: He would not realise that though.

Mr NEIL ROBERTS: No, he does not realise that because he probably has not done the research on this issue that he should have done. In terms of the responses of governments at all levels across Australia, I point out that a number of very significant initiatives have been put in place to address this issue, including significant tort law reforms. This bill is the final stage in the package of reforms that all state governments are putting in place.

We have established a group liability scheme, which he has criticised. Yes, there have been some criticisms of the application of that scheme. We have put in place some improvements over the last couple of years. There have been some issues which have needed to be dealt with. It does offer a service to community groups which is not offered by any other state. Queensland is the only state that set up the group liability scheme which does, at least, provide additional service and support to community organisations.

We have provided relief from duty for eligible organisations and provided advice on risk management practices for community groups. So the response of our government has been identical to the response of all other governments and has been done in conjunction and with the support of governments at all levels.

The reforms that have been put in place within Australia across all jurisdictions have been recognised internationally. Both the Commonwealth and state governments were represented recently at an international conference in London where these reforms created a great deal of interest from other countries and were seen to be a way in which the difficulties of liability insurance can be addressed in other jurisdictions as well.

We are now seeing a much more favourable underwriting environment for insurers. The area in which the member for the Callide should be focusing his attention is the insurers themselves. The underwriting environment is very favourable at the moment. Over the last year or so we have seen increased profit or a return to profitability in that sector. The member for Callide, and indeed all members in this House, should now be putting pressure on the companies to reduce their premiums, particularly in the not-for-profit sector.

As I have indicated, this bill represents the final stage of legislative reforms that have been designed to lessen the impact of public liability insurance problems in Australia that have been experienced for the last few years. As the Attorney-General pointed out in his second reading speech, the bill will enable professionals to access more affordable insurance and provide greater certainty for consumers with respect to the quality of professional services.

I had the pleasure of representing the Premier and Treasurer at the ministerial council on insurance matters in Hobart earlier this year where the issue of professional standards legislation was raised. The clear consensus amongst ministers at state and federal level was that professional standards legislation should be consistent across all jurisdictions. As with all other states, our legislation has been based on the New South Wales act.

The bill before the House provides two key benefits for the professions and the community. Because it establishes a monetary cap for liability, it provides professions with certainty about their level of exposure. In setting this cap, it was also important to ensure that consumers' interests were protected as well. The legislation also facilitates the provision of more affordable insurance by bulk purchase arrangements made on behalf of professionals in a particular sector.

Price pressures are also lessened because professional bodies can bargain on the basis that their members will be required to implement risk management practices and undergo continuing professional development. They also risk disciplinary action if they fail to act accordingly. These activities limit the liability exposure of insurers thus leading to an environment where they can offer lower premiums.

One issue that the federal government raised at the Hobart ministerial council meeting was the possibility of broadening the profession standards legislation to include personal injury associated with medical negligence. This issue was opposed by all states because that would have allowed the medical profession to cap their liability with respect to medical negligence claims and leave injured parties without appropriate compensation. It was also contrary to the recommendations made in the report by Justice Ipp that professional standards legislation should not include medical negligence.

Additionally for Queensland the proposal was considered unnecessary as the legislation we have in place already contains specific provisions which reduce the exposure of the medical profession to negligence actions. Another factor was that the federal government has implemented what is referred to as its blue sky scheme which has provided a level of protection to medical practitioners whereby under that scheme the federal government has assumed liability for the entire amount payable by a doctor in excess of a threshold of \$20 million for claims notified under medical indemnity insurance from 1 July 2003. The threshold is designed to encourage medical defence organisations to offer the maximum amount of cover that can feasibly be sourced from the commercial reinsurance market.

The bill provides a mandatory scheme for all members of an approved occupational association and those members are prohibited from contracting out the capped liability arrangements under this bill. As the minister outlined in his second reading speech, if contracting out was not prohibited, large corporate consumers could use their market power to force small businesses to waive the cap on liability.

The bill does provide for some flexibility in this requirement. Professions may choose to either have higher limits of liability or seek exemption from the scheme from their professional association thus allowing for circumstances where levels of insurance higher than the cap are important in some contract situations.

The bill overall is a balanced piece of legislation which meets Queensland's commitment to tackle the liability insurance problems. As I have indicated, it is the final stage of the reforms proposed by our government and is in line with the reforms urged by the insurance industry itself.

At the beginning of this process, the insurance industry asserted that these reforms would lead to an improvement in the insurance market and also a return to profitability for the sector. That has indeed happened. However, for some in the community, particularly the not-for-profit sector, there have been few benefits passed on by these reforms. At this stage I think it is fair to say that most people in the community sector would see that the insurance industry has benefited quite significantly, particularly due to the return to profitability in the last year or so. The community sector is still waiting for the industry to pass on those benefits. The ACCC has a monitoring role on this issue and the last two monitoring reports have shown that, in terms of average premiums—which sometimes can be a little misleading in terms of the practical impact on many organisations on the ground—in 2002 average premiums increased by around 44 per cent and increased by about 17 per cent in 2003. However, as I pointed out to the ACCC at the meeting in Hobart earlier this year, these figures do not represent the practical experience of a large number of community and sporting organisations. I gave examples from within my own electorate where many organisations had experienced increases last year ranging from 50 per cent up to around 100 per cent.

The Queensland government has put in place, as I have indicated, a range of reforms. We believe that those reforms were directly responsible for the improved insurance market, particularly in the motor vehicle sector, and enabled us to reduce premiums in the third-party insurance area. Insurance companies

continually advise us that we will never see a return to the pre-HIH days when there were quite low premiums because they were unsustainable. Whereas I think that is the case, there is still a strong argument—and I think the evidence is increasingly starting to suggest this—that the industry is now in a position to pass on more benefits directly in terms of reduced premiums to the community sector. The Beattie government has continued to push the federal government to give the ACCC the necessary investigative and enforcement powers over the insurance industry. It is only then when those powers are granted that the full benefits of the insurance reforms can be required to be passed on to consumers.

I was pleased to read reports in the media last week that a federal Latham Labor government will give powers to the ACCC to curb price exploitation by insurance companies, including provisions which will enable the seeking of refunds for customers. The evidence is that the rate of increase in premiums has slowed somewhat. However, as I have indicated, most community groups are yet to see the real benefits of the reforms that we have put in place. As I have indicated in other places on behalf of the Treasurer, it is time now for the insurance companies to deliver the benefits which they are receiving from the government's reforms in this area. On that basis, I congratulate the Attorney-General and his department on their hard work in putting this bill together and commend the bill to the House.