Speech By

Hon. Cameron Dick

MEMBER FOR WOODRIDGE

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HEALTH PRACTITIONER REGULATION NATIONAL LAW AND OTHER LEGISLATION AMENDMENT BILL

Introduction

Hon. CR DICK (Woodridge—ALP) (Minister for Health and Minister for Ambulance Services) (12.31 pm): I present a bill for an act to amend the Ambulance Service Act 1991, the Health Ombudsman Act 2013, the Health Practitioner Regulation National Law Act 2009 and the acts mentioned in schedule 1 for particular purposes. I table the bill and the explanatory notes. I nominate the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee to consider the bill.

Tabled paper: Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2017 [908].

Tabled paper: Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2017, explanatory notes [909].

The Council of Australian Governments reached an historic agreement in March 2008 known as the Intergovernmental Agreement for a National Registration and Accreditation Scheme for the Health Professions. This agreement led to the enactment of the Health Practitioner Regulation National Law in all Australian states and territories in 2009 and 2010, with Queensland as the host jurisdiction for the legislation.

The national law commenced operation on 1 July 2010, except in Western Australia, which joined the scheme from 18 October 2010. The national law initially regulated 10 health professions, with four additional professions joining the scheme from 1 July 2012. For the first time in Australia's history, health practitioners had a single registration which was recognised across the country. The introduction of the national law and national registers for each regulated health profession also ensure that a practitioner who commits misconduct in one jurisdiction is not able to move to another state or territory and practise undetected.

This bill is a significant milestone for the evolution of the national law, as it is the first time that the national law has been amended since its commencement. The bill is the result of cooperation between all Australian health ministers and officials in each state, territory and the Commonwealth. The final form of the bill was formally endorsed by the COAG Health Council, sitting as the Australian Health Workforce Ministerial Council, on 29 May 2017.

The process leading up to this bill started in 2014 with the appointment by Australian health ministers of Mr Kim Snowball, formerly the director-general of the Department of Health in Western Australia, to conduct an independent review of the National Registration and Accreditation Scheme for the health professions. The independent review involved an extensive national public consultation process, including stakeholder forums in each capital city and the receipt of over 230 written submissions. The final report of the review made a range of recommendations for amendments to the national law to improve the operation of the national scheme and to strengthen the health complaints management process to better protect the public.

Health ministers accepted, or accepted in principle, the majority of the recommendations. The implementation of the ministerial council's response to the independent review is occurring in two stages. I am proud to introduce the bill to implement the first stage of amendments, which focus on improved governance of the national scheme, greater consumer responsiveness, strengthening public safety and improved fairness for health practitioners. A second stage of amendments to the national law will be progressed in a separate bill, following a comprehensive consultation process with stakeholders that is expected to occur later this year.

I will now turn to the main reforms to the national law that this bill will deliver. The most significant reform in this bill is the introduction of national registration for paramedics. This reform resulted from a decision of the COAG Health Council in November 2015 for paramedics to join other professions regulated under the National Registration and Accreditation Scheme.

Paramedics perform a vital health care role for the community. There are currently around 14,000 paramedics working throughout Australia in settings which can vary widely from ambulance services to construction sites and offshore oil rigs. In comparison to first aid officers or patient transport workers, paramedics perform higher level clinical roles, such as the delivery of rapid response clinical assessment and care in out-of-hospital settings that are often unpredictable and challenging.

As a result of amendments in the bill, paramedicine will become a health profession regulated by the national law. Paramedics will be subject to the same regulatory arrangements as all other health professions regulated under the national law. This includes, for example, registration processes, accreditation of training programs and national standards for entry to practice.

Like every other profession regulated under the national law, the paramedicine profession will be regulated by a national board. To achieve this, the bill establishes the Paramedicine Board of Australia. It is anticipated that members of the Paramedicine Board will be appointed by the COAG Health Council as soon as possible after the bill has been considered by the Queensland parliament.

Under the bill the title of 'paramedic' will become a protected title. This will remove any confusion by ensuring only a paramedic registered by the Paramedicine Board can use the title 'paramedic'. The Paramedicine Board will be responsible for establishing nationally agreed qualifications and professional standards for practise as a paramedic. The board will also be able to take action to deal with a paramedic who engages in unprofessional conduct or professional misconduct, is poorly performing or has an impairment that affects their practice.

In the coregulatory jurisdictions of New South Wales and Queensland, disciplinary and enforcement matters will be dealt with under the arrangements that apply in each of those states. That is, in New South Wales the Paramedicine Council of New South Wales will take action related to complaints and in Queensland the Health Ombudsman will deal with more serious complaints.

The measures in the bill mean the community can have confidence that the services they receive from paramedics are delivered by people who have the right training and experience and are bound by national standards set by the Paramedicine Board. This bill also promotes workforce mobility for paramedics across the country by allowing them to register once and practise anywhere in Australia.

Once the Paramedicine Board has been appointed by health ministers, it will work with the Australian Health Practitioner Regulation Agency, also known as AHPRA, to prepare the profession for registration, which is expected to commence in the second half of 2018. One of the key functions of the Paramedicine Board will be to develop registration standards for paramedicine. Under the national law, these standards must be submitted to health ministers for their approval.

The registration standards will set requirements for professional indemnity insurance arrangements, criminal history checking of applicants, continuing professional development, English language skills, recency of practice requirements and any other matter relevant to paramedicine that the board believes is necessary. All applicants for registration as a paramedic will be required to meet the registration standards developed by the board and approved by the health ministers.

For people currently working as paramedics, the bill provides various pathways under which they can be eligible for general registration. Firstly, applicants who hold an approved qualification or a qualification that the Paramedicine Board considers to be substantially equivalent to an approved qualification will qualify for general registration. Approved qualifications will be decided by the Paramedicine Board after it is established. For the first three years after registration commences, the Paramedicine Board may approve programs of study accredited by the Council of Ambulance Authorities Inc. and published on the council's website as 'approved qualifications' which lead to general registration.

For paramedics who do not hold an 'approved qualification', the bill includes grandparenting arrangements which will allow paramedics with adequate qualifications, training or practical experience to qualify for general registration. In addition, the bill provides that applicants who hold a diploma or an advanced diploma of paramedical science issued by the Ambulance Service of New South Wales will qualify for general registration. This provision was included in the bill at the request of the New South Wales government to retain its vocational pathway for paramedic training. The Ambulance Service of New South Wales recruits and trains paramedics undertaking this qualification including specific on-the-job training and supervised practice. The inclusion of this provision in the bill was agreed by all health ministers to ensure the participation of all states and territories in the registration scheme for paramedics.

The paramedicine profession and its key stakeholder organisations have advocated for national registration for paramedics for many years and stakeholders have welcomed this reform. If enacted, this bill will ensure that our paramedics, who provide such an outstanding standard of health care in often very trying and difficult circumstances, will be regulated in the same way as many of the colleagues they work alongside, such as medical practitioners, nurses and midwives.

Let me now turn to some of the other amendments in the bill. Currently, under the Health Practitioner Regulation National Law, the structure of the national boards for the health professions is fixed, with each regulated profession having its own national board. The independent review of the national scheme recommended consolidating a number of national boards which have a lower regulatory workload, such as those with a smaller number of registered health practitioners and fewer complaints and notifications. Health ministers did not accept this recommendation and decided that efficiencies could be achieved by streamlining existing arrangements under all the national boards. However, ministers did not rule out that changes to national boards may be required in the future to ensure the national scheme continues to be fit for purpose.

To provide the necessary flexibility, the bill inserts a new head of power for national boards for each profession to be specified in regulations made under the national law. The bill makes it clear that the regulations may establish a national board for two or more health professions; however, the bill also provides that, before exercising such a power, health ministers must conduct public consultation. There is no current plan to change the structure of national boards. To demonstrate this, I table proposed amendments to the Health Practitioner Regulation National Law Regulation which show the proposed structure of national boards will remain unchanged once the bill and regulation changes come into effect.

Tabled paper: Draft regulation titled Health Practitioner Regulation National Law Amendment Regulation 2017, Tabled Draft—June 2017 [910].

One of the recommendations of the independent review of the national scheme was to amend the national law to recognise nursing and midwifery as separate professions. The majority of registered midwives also hold nursing registration, with approximately 30,000 people having dual registration as both a midwife and a nurse. However, in recent years there has been an increase in the number of people registered as midwives only, with approximately 3,000 midwives in this category. This change has resulted from a number of factors, including direct entry training programs for midwifery and alternative maternity choices for women, particularly in metropolitan areas. As a result of the acceptance of the independent review's recommendation, the bill amends the national law to formally recognise nursing and midwifery as separate professions. These professions will continue to be regulated by the Nursing and Midwifery Board of Australia.

The bill expands the grounds on which national boards may take immediate action against health practitioners to include a new ground where the board reasonably believes immediate action is needed in the public interest. This change will align the national law with the approach used in New South Wales, whose law also includes a 'public interest' test for immediate action.

The current grounds on which a national board may take immediate action have been found to be problematic in some cases, such as the failures at Djerriwarrh Health Services in Victoria. In that case, the national board was unable to take immediate action because the material before the board did not meet the threshold set out in the national law. In this context, I would like to draw attention to the recent report by Professor Ron Paterson titled *Independent review of the use of chaperones to protect patients in Australia*, which was jointly commissioned by the Medical Board of Australia and the Australian Health Practitioner Regulation Agency. The report strongly endorses the approach taken in the bill to apply the 'public interest' test to immediate action for health practitioners.

The bill will enable national boards to require a health practitioner to provide details of all of the places at which the practitioner practises, regardless of the manner of their engagement or appointment. This will cover practitioners engaged as employees, contractors, voluntary and honorary appointments, practitioners credentialed to practise in a hospital, partnership arrangements and the use of service companies.

The intent of these amendments is to ensure that, where action is being taken against a health practitioner, a national board is able to inform all places at which the person practises. This change will help to protect public safety by ensuring that, regardless of the manner of engagement of a health practitioner, their employer or equivalent entity will be made aware of any disciplinary action or conditions imposed on registration. Practitioners will not be required to provide information about the residential addresses of clients or patients where a practitioner provides a 'house call' service or otherwise visits residential premises.

The national boards and the Australian Health Practitioner Regulation Agency will develop guidelines about the practice information to be provided by practitioners under the new provisions of the bill. The guidelines will provide practical information on how the provisions will apply, particularly to common employment, contracting and volunteering arrangements. As with all guidelines developed under the national law, there must be wideranging consultation with stakeholders during their development.

The bill also makes it an offence to breach a prohibition order made in any state or territory, with a maximum penalty of $30,000. Although it is expected that practitioners will comply with prohibition orders made by a tribunal, until now it has not been an offence under the national law to contravene a prohibition order. The significant penalty associated with this offence is intended to deter anyone considering continuing to practise in contravention of such an order.

The bill will also require a practitioner who is subject to a prohibition order to inform patients and employers about the prohibition order before providing health services. Details of a prohibition order will also need to be included in any advertising of the practitioner's health services. These are further important safeguards for the public to ensure they are fully informed about any restrictions on a practitioner's practice.

During the independent review of the national scheme, concerns were raised about the way notifiers were kept informed of developments about complaints they had made under the national law. The independent review identified concerns about communication and the lack of information provided to notifiers about the reasons for decisions made and actions taken.

The bill provides the basis for making significant improvements to the way communication with notifiers will be handled in future. This is to be achieved by giving national boards the discretion to inform notifiers of a greater range of actions taken in response to notifications and, most importantly, the reasons for decisions. Until now, in most cases, due to the national law and privacy concerns, only publicly available information has been able to be shared with notifiers, and this has led to some mistrust in the complaints handling process and a lack of transparency and accountability. The national boards and the Australian Health Practitioners Regulation Agency will develop a common protocol to ensure appropriate information is disclosed to notifiers at appropriate times, while also taking into account privacy concerns of practitioners.

Let me now turn to the other amendments in the bill, which amend legislation specific to Queensland. The most significant amendments in the bill which relate to Queensland legislation are those to the Health Ombudsman Act 2013. The national law recognises the possibility that states and territories can opt to be co-regulatory jurisdictions, and Queensland and New South Wales are the only states to have done so. Under Queensland's co-regulatory arrangements set out in the Health Ombudsman Act 2013, the more serious notifications management, disciplinary and enforcement processes for registered health professionals are dealt with by the Queensland Health Ombudsman. The Health Ombudsman has powers to refer some matters to the Australian Health Practitioner Regulation Agency or a national board, depending on the nature and circumstances of the matter.

As registered health practitioners in Queensland can be dealt with under either the national law or the Health Ombudsman Act 2013, it is important to ensure alignment between these two pieces of legislation where possible and appropriate. As a result, the bill makes a number of amendments to the Health Ombudsman Act 2013 to align it with changes made to the national law. The main amendments in this category are those which introduce a 'public interest' test for taking immediate action and amendments to ensure the Health Ombudsman can notify all places of practice of a health practitioner if disciplinary or enforcement action is taken against them.

The Queensland Health Ombudsman is also the primary body that deals with health service complaints for health professionals that are not required to be registered. These health professionals include dieticians, homeopaths, naturopaths, nutritionists, massage therapists, social workers and speech pathologists. Again, to ensure alignment between the way registered health practitioners and other health practitioners are dealt with, the bill makes consistent amendments to provisions of the Health Ombudsman Act dealing with unregistered practitioners.

On 16 December 2016 the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee tabled its report titled *Inquiry into the performance of the Health Ombudsman's functions pursuant to section 179 of the Health Ombudsman Act 2013*. The Queensland government adopted and supported the committee's recommendations, which are in the process of being further considered.

As part of the inquiry, the Queensland Health Ombudsman submitted a list of suggested amendments to the Health Ombudsman Act 2013. The majority of these amendments require further detailed consideration. However, a small number of the amendments were identified as being suitable to progress immediately. The most significant of these amendments included in the bill are those that provide the Health Ombudsman with powers to vary an immediate registration action or an interim prohibition order on the Health Ombudsman's own initiative or on application by a health practitioner.

These powers will be used if there has been a material change in circumstances since the Health Ombudsman's original decision. The powers would be used, for example, if the risks associated with a practitioner had changed. This may mean, for example, that suspension of a practitioner's registration was no longer considered necessary and a condition of registration would be sufficient to protect the public. Similarly, in a case where changing circumstances or information meant that the risks associated with a practitioner continuing to practise had escalated, it may be appropriate to suspend the practitioner's registration rather than rely on a condition of registration to protect public health or safety.

These amendments provide an efficient and flexible way for the Health Ombudsman to vary immediate registration action or an interim prohibition order to reflect changing circumstances while still appropriately protecting public health and safety. Health practitioners will also benefit from a more efficient and cost-effective way to seek a variation of immediate action rather than having to apply to the Queensland Civil and Administrative Tribunal for a review of the Health Ombudsman's decision.

The bill contains other amendments, all of which are aimed at making improvements to the way the national scheme and Queensland's co-regulatory arrangements operate in practice. The changes will ensure fairness for practitioners and help to improve the processes and procedures applying under the national law and the Health Ombudsman Act 2013. All of the changes to the national law in the bill have been supported by all Australian health ministers and reflect policy positions approved by governments in each state and territory.

It is important to note that, if this bill is passed by the Queensland parliament, it will apply automatically in other jurisdictions except for South Australia, which must make regulations to adopt the changes, and Western Australia, which enacts its own separate legislation. Also, the complaints-handling and disciplinary and enforcement powers in the bill will not apply to New South Wales practitioners under its co-regulatory arrangements. In New South Wales, the health professional councils work with the Health Care Complaints Commission to assess and manage concerns about their practitioners. I am proud of Queensland's important role as the host jurisdiction for the Health Practitioner Regulation National Law and for the responsibility of progressing these important changes on behalf of all health ministers across the country.

In conclusion, this bill demonstrates an ongoing commitment to protecting the health and safety of the public and a focus on professional and competent practice by health professionals. The amendments to the national law contained in the bill are the result of a collaborative effort by the states and territories, the Commonwealth and stakeholders. I would like to take this opportunity to thank my fellow members of the COAG Health Council for the spirit of collaboration in which they worked to develop this important bill. I would also like to thank the stakeholders who provided feedback in response to the independent review and the consultation process for the bill. The level of response received is indicative of how committed our health practitioners, representative bodies and regulatory bodies are in ensuring fair outcomes for health professionals and safe, high-quality health care for the public. I commend the bill to the House.

First Reading

Hon. CR DICK (Woodridge—ALP) (Minister for Health and Minister for Ambulance Services) (12.55 pm): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Referral to the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee

Mr DEPUTY SPEAKER (Mr Crawford): Order! In accordance with standing order 131, the bill is now referred to the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee.

Portfolio Committee, Reporting Date

Hon. CR DICK (Woodridge—ALP) (Minister for Health and Minister for Ambulance Services) (12.55 pm), by leave, without notice: I move—

That under the provisions of standing order 136 the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee report to the House on the Health Practitioner Regulation National Law and Other Legislation Amendment Bill by 11 August 2017.

Question put—That the motion be agreed to.

Motion agreed to.