Speech By

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HEALTH PRACTITIONER REGULATION NATIONAL LAW AND OTHER LEGISLATION AMENDMENT BILL

Ms BATES (Mudgeeraba—LNP) (5.24 pm): I rise to speak on the Health Practitioner Regulation National Law and Other Legislation Amendment Bill. The bill was introduced by the Minister for Health and Minister for Ambulance Services on 31 October 2018 following agreements made by the COAG Health Council.

As outlined in the explanatory notes, the bill amends the health practitioner regulation national law as agreed by the Council of Australian Governments Health Council on 12 October 2018 to introduce reforms to mandatory reporting by treating practitioners, to ensure health practitioners have confidence to seek treatment for health conditions whilst protecting the public from harm; and to double the penalties for holding out and related offences under the national law from $30,000 to $60,000 and introduce a maximum imprisonment term of three years for the most serious offences.

The bill makes consequential amendments to the Queensland local application provisions of the Health Practitioner Regulation National Law Act 2009 to align Queensland's approach to mandatory reporting by treating practitioners with the approach in the national law by removing a Queensland specific provision; and to provide for circumstances in which the holding out and related offences are prosecuted on indictment and summarily in Queensland. The bill also makes consequential amendments to the Ambulance Service Act 1991 and the Hospital and Health Boards Act 2011.

From the outset, I want to make clear that the LNP will not be opposing the bill. We are happy to see increased penalties for what is referred to as holding and related offences. This refers to people who impersonate a health practitioner—which is obviously extremely dangerous and a risk to public safety. Of course, we all remember a recent case where this happened in Queensland. In January 2018, a court heard that a Queensland man Nicholas Delaney—also referred to as 'Dr Love'—stole security credentials and wandered around the then Lady Cilento children's hospital for seven months in 2017. During that time, he posed as a hospital surgeon. He was fined $3,000 but no conviction was recorded. That brought national shame and embarrassment to Queensland and the lax hospital security measures at our No. 1 children's hospital, sparking a major review.

In September last year, it was further revealed that following the review there was a major security overhaul required. Despite a promised 11-point action plan to address the issue, we still hold major concerns that anyone could throw on a pair of scrubs, put a stethoscope and a lanyard around their neck and go around unchallenged in our hospitals. In fact, when asked in the House on 16 May last year about releasing the security review, the minister refused to address that issue. It was the usual 'all talk, no action' approach to openness and transparency that has become the norm with this government.

Mr DEPUTY SPEAKER (Mr Kelly): Member, you are straying away from the long title of the bill.

Ms BATES: However, thanks to right to information, we were able to uncover the massive security overhaul requirement for the benefit of Queenslanders. Of course, who could forget the UK doctor who was in line for the $400,000 clinical director's job in Cairns in 2017, despite a simple Google search revealing that he was banned as a company director for seven years in the UK? We support these proposed amendments to increase penalties.

The main elements in the bill relate to mandatory reporting requirements for treating practitioners. As I mentioned before, we will not be opposing the bill, but we are moving amendments regarding mandatory reporting. We believe that after a decade there is enough evidence to suggest that the Western Australian model is the optimal model and we support that introduction in Queensland. The only issue where we support mandatory reporting is where it involves sexual misconduct.

As the explanatory notes indicate and by way of background, the national law was established through COAG over 10 years ago. The national law established 15 national boards that register and regulate health practitioners from 16 regulated health professions. It also established the Australian Health Practitioner Regulation Agency, or AHPRA, to provide regulatory services for the national boards and advice and assistance to the COAG Health Council in relation to the national scheme.

The national scheme and national law ensure that only health practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered. It allows health practitioners to have a single registration recognised anywhere in Australia and provides mechanisms for detecting and addressing practitioner health, conduct or performance issues.

The national law also provides powers to prosecute persons who falsely hold themselves out to be registered or use a protected professional title. Medical professionals have long held concerns about the stated public policy benefits of the reforms as being in the interest of patient safety. However, after a decade the reality is that it is questionable that those outcomes have been realised.

One of the main concerns raised by medical professionals is that mandatory reporting discourages registered health professionals from seeking the medical treatment that they need for fear of losing their professional practice. In that regard there were a number of submissions to the parliamentary committee on that specific issue and the concerns of representative groups of medical professionals concerned about the health and welfare of their members. Unlike the government, we support their concerns. In its submission the Royal Australian College of General Practitioners stated—

> The current mandatory reporting arrangements are of serious concern to the RACGP and its members, and have been since the inception of the National Law in 2009. The amendments outlined in this Bill make no material difference to the current arrangements which are, as previously stated, unsatisfactory.
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> The RACGP accepts that mandatory reporting, as applicable to employees, colleagues, and managers, has an important role in protecting public safety.
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> However, treating practitioner mandatory reporting of medical conditions and impairments remains a barrier for practitioner-patients requiring care/treatment, as they fear the consequences of being reported by their treating doctor. This barrier can have a negative effect on the wellbeing of our health workforce, and in turn patient safety.
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> The only issue that a treating practitioner should be subject to on mandatory reporting is where there is evidence of sexual misconduct.
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> It is important that practitioner health is protected. Barriers to treatment, whether real or perceived, must be removed. A shared understanding between policy makers and practitioners of the *intent* of any amendments to the National Law is vital, so that practitioners feel confident about their rights and responsibilities. All practitioners will require education and further information to enable them to understand the mandatory reporting requirements that apply in their jurisdiction. Any ongoing lack of clarity in this important matter is unacceptable to the RACGP.

The Australian Medical Association raised similar issues. In its submission it stated—

> The AMA has long called for changes to the Mandatory Reporting law. Australia's medical practitioners desperately need legislation that does not actively discourage them from seeking medical treatment when they need it. Practitioners are also patients and should have equal rights to access confidential high-quality medical treatment as their own patients and all other Australians.
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> As the AMA has continually stated, the unintended consequences from the operation of the current National Law are far reaching. Doctors are avoiding seeking treatment for their own health concerns, particularly mental health concerns, out of fear of the consequences and they and their families are suffering as a result. Ironically, current mandatory reporting law put in place to protect the public is actually more likely to expose it to untreated, unwell doctors. For the treating practitioner, it has also had a detrimental impact on the confidentiality of the doctor-patient relationship, impairing the ability of the practitioner to deliver an appropriate level of care.

However, just like we have seen with the botched rollout of Labor's integrated electronic medical record system, the concerns of doctors are being ignored, and as a result patient safety will continue to be at risk. One group that you would think Labor would listen to over many others are the unions. The

Queensland Nurses and Midwives' Union also made a submission to the parliamentary committee in relation to this bill and, in particular, also raised concerns about the mandatory reporting obligations. It stated—

From the perspective of the health practitioner seeking treatment for a mental health disorder or an alcohol or other drug dependence, the development of a therapeutic relationship with the treating practitioner is of the utmost importance. Essential to that therapeutic relationship is trust and confidentiality.

If the treating practitioner is then required to formally notify the regulatory authority of the patient's impairment, inevitably leading to forced restrictions to practice that can be imposed for up to two years, that therapeutic relationship can be very difficult to maintain.

In a recent survey of Australian mental health professionals (Edwards & Crisp, 2017) 57% indicated the mandatory reporting requirement would act as a barrier to seeking help if they were distressed. The prevalence of stigmatising attitudes, concern for lack of confidentiality, embarrassment, preference for self-help and career concerns are further impediments (Beyond Blue, 2013). Legislated, compulsory notification can therefore become counterproductive if it deters practitioners from seeking assistance.

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The QNMU believes the National Law as in force in Queensland should mirror the National Law provisions in Western Australia and provide treating practitioners with a complete exemption from making a mandatory notification of a nurse or midwife who has sought treatment for a health impairment.

Given the size of the membership, the QNMU would be the largest stakeholder that is negatively impacted by Labor's refusal to make the appropriate changes to the mandatory reporting system. Former state and national AMA president Dr Bill Glasson AO also made a heartfelt plea to the parliamentary committee. In his submission, amongst other things, he stated—

Any barrier to the best and most comprehensive treatment must be removed for any Queenslander seeking help. However, currently in every state bar WA, a health practitioner cannot seek treatment for a mental health condition without fear of being reported to AHPRA and publicly identified.

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This has led to health practitioners not seeking help for these conditions & ultimately to a high number of suicides. From 2001 to 2012, 369 suicides were reported across a range of health professionals across Australia ... between January 1, 2011, and December 31, 2014, there were 153 health professionals who died as a result of suicide. Within the profession, that represented a suicide rate of 0.03 per cent, the highest among white-collar workers.

Beyondblue's 2013 survey of more than 12,000 doctors found that one in three were concerned that seeking treatment could have an adverse effect on their registration and right to practise. Additionally, one in two respondents raised lack of confidentiality as a barrier to seeking help.

A number of submitters raised general concerns around the lack of consultation. While they understand that there were discussions about issues and their input was sought, particularly from a COAG level, their concerns have seemingly fallen on deaf ears. Rather than a proper consultation process, it sounds more like a 'this is what we are doing' process because from their perspective it was a complete waste of time.

The issue of mandatory reporting is a complex public policy issue. There is the obligation to protect the public while balancing the health and welfare of registered health practitioners. However, the effect of the current regime is that doctors and nurses are too scared to seek help. That has the perverse outcome of putting patient safety at risk. We trust medical practitioners every day to make decisions based upon their training, expertise and obligations to act ethically to protect Queenslanders from harm. Surely we should do the same when we are treating a fellow medical practitioner. I say that as an MP and a registered nurse, and someone who has been a health professional in a variety of roles over many years.

On this side of the House we believe that Queenslanders deserve a world-class health system regardless of where they live but also who they are. There should not be different rules for different people depending on what their job is. We should be trying to help our nurses and encourage them to seek the medical help they personally need. We should be listening to the concerns of our doctors and doing what is in the best interests of patient safety.

We urge the government to not only listen but actually act on the concerns of clinicians. Those opposite claim to be about science and evidence only when it suits them. While there have been changes to the mandatory reporting regime since its introduction in 2009, there have been changes to improve the system but the concerns of clinicians remain and have only grown stronger. As the deputy director-general of Queensland Health indicated in a public briefing to the parliamentary committee—

The Western Australia model relies on the professional ethics and expectations of the individual treating practitioner. Practitioners do have a legal duty to protect the public from harm. That is set out in their ethical and professional conducts.

The need for change has been accepted but, as we proposed in our amendments, the changes being implemented do not go far enough in ensuring that health practitioners do not have barriers to medical treatment and that the system encourages them to seek treatment, not professionally reprimand them for doing so. While the government seems more interested in national consistency, we are focused on patient safety and the health and welfare of Queensland health professionals—be it doctors, nurses, midwives or dentists. I urge the health minister to listen to clinicians and act in the interests of Queenslanders. I also urge the crossbench members to support our sensible amendments that get the balance right. While national consistency is always an important consideration, it is up to the government to do what is right for our state as the priority.