Speech By

Hon. Dr Steven Miles

MEMBER FOR MURRUMBA

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HEALTH PRACTITIONER REGULATION NATIONAL LAW AND OTHER LEGISLATION AMENDMENT BILL

Second Reading

Hon. SJ MILES (Murrumba—ALP) (Minister for Health and Minister for Ambulance Services) (5.08 pm): I move—

That the bill be now read a second time.

I would like to begin by acknowledging the work of the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee in considering the Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2018 and for the committee's report tabled on 4 February 2019. I would also like to thank all the stakeholders who made written submissions to the committee, attended the public hearing on 5 December 2018 and participated in the national consultation processes on the bill. The input from stakeholders has contributed to legislation that is well considered and balanced and that promises to provide significant benefits for patients and health practitioners.

The committee's report made two recommendations. The first recommendation was that the bill be passed. I appreciate the committee's support for the bill. The committee's second recommendation asked me to advise the House about the scope and timing of an education program to raise awareness and understanding by health practitioners and other stakeholders about the mandatory reporting reforms in the bill. The government accepts this recommendation and I will outline the plans for that education program shortly. I will also address the statement of reservations by the LNP members of the committee. I table the government's response to the report of the committee on the bill.

Tabled paper: Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee: Report No. 17—Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2018, government response 192.

As I outlined in my speech to this House on 31 October 2018, the bill makes priority reforms to the Health Practitioner Regulation National Law as agreed by health ministers at the meeting of the COAG Health Council on 12 October 2018. The national law, which has operated in all states and territories since 2010, establishes a national scheme for the regulation of over 700,000 health practitioners and students across Australia in 24 health occupations, including doctors, nurses, midwives, dentists, pharmacists and psychologists.

The overarching purpose of the reforms to the national law is to improve patient safety, enhance protection for consumers of health services and ensure health practitioners have confidence to seek treatment for health conditions. The bill introduces changes that will make it easier for registered health professionals to seek help for health issues by making it clear that a treating practitioner is only required to make a mandatory report if a practitioner patient has an impairment that cannot be managed appropriately through treatment and is placing the public at substantial risk of harm. By encouraging practitioners to seek help to manage their health issues, the bill will promote better and safer care for both practitioners and their patients.

The bill will also strengthen penalties for persons who falsely hold themselves out as a registered health practitioner. Anyone who tricks sick people into believing they are medical professionals and then does nothing to help them or, worse, maims them with dangerous treatments is nothing short of despicable. The scam artists and fraudsters are on notice.

The bill will double the maximum fines for these offences and introduce an imprisonment term of up to three years for the most serious conduct. A number of stakeholder submissions to the committee noted increased penalties will provide more effective deterrents and greater protection for the public as well as promote increased trust and confidence in registered health practitioners and the healthcare system.

Mandatory reporting has been part of the national law since it was adopted by all states and territories in 2010. Mandatory reporting protects the public by ensuring that regulators are notified about registered health practitioners who place the public at risk. In Queensland mandatory reports are made to the office of the Health Ombudsman and dealt with under Queensland's co-regulatory arrangements. In other states and territories mandatory reports are made to the Australian Health Practitioner Regulation Agency, AHPRA, and the national boards.

To address concerns raised that the current mandatory reporting requirements discourage health practitioners from seeking treatment for their health concerns, especially their mental health, the bill introduces an improved framework for mandatory reporting by treating practitioners. The requirement to make a mandatory report about a practitioner is not a new one. Mandatory reporting has been a key feature of the national law since its inception and is supported by the COAG Health Council.

A significant feature of the reforms is the establishment of a higher threshold for when a treating practitioner must make a mandatory report. Except in relation to sexual misconduct, a treating practitioner will only be required to make a mandatory report if their practitioner patient has an impairment or is engaging in conduct that places the public at a substantial risk of harm.

This is a high threshold which is appropriate given the unique insight that a treating practitioner has into the health of their patients. That insight enables them to consider the available treatment options and strategies that the practitioner patient is willing to take to practise their profession safely. The revised approach will maintain strong protections for public safety while providing clarity to treating practitioners about their mandatory reporting obligations. It will also give practitioners the confidence they need to seek help to manage their health and wellbeing.

The bill includes guidance about the factors a treating practitioner may consider in making an assessment about whether a practitioner patient meets the threshold for reporting. The guidance factors underscore the need to examine the practitioner patient's health issues and other circumstances in a holistic way. For example, a treating practitioner may consider the nature, extent and severity of the practitioner patient's impairment, whether the impairment can be managed through appropriate treatment and whether the practitioner patient is willing to take steps to manage their impairment.

Taken together, the higher reporting threshold, holistic approach and guidance factors in the bill send a very clear message to practitioners that if they seek treatment and are willing to take steps to ensure that they can practise safely their treating practitioner will not be required to make a mandatory report. As important as it is to encourage registered health practitioners to seek treatment for their health issues, it is paramount that any reforms in this area do not prevent regulators from being made aware of practitioners who pose a danger to the public. Mandatory reporting by treating practitioners for impairment, intoxication by drugs and alcohol and practise outside of professional standards is essential if it meets the threshold of substantial risk of harm to the public.

This bill also strengthens requirements for reporting of sexual misconduct, including a new requirement to report risks of future sexual misconduct. This will ensure that if a treating practitioner becomes aware that a practitioner patient is, for example, grooming a child or a patient they would be required to report the matter to the regulator.

The existing Queensland provision modifies the national law for mandatory reporting by treating practitioners. Queensland's current legislation uses the same reporting threshold as the bill of substantial risk of harm for reporting impairment. Although the reporting threshold is the same, the current Queensland provision is not as comprehensive as the approach set out in the national law. For example, the Queensland provision does not include the guidance factors which provide further clarity to treating practitioners about matters they may consider in deciding if a practitioner patient meets the threshold of substantial risk of harm. For clarity and to promote national consistency, Queensland has agreed to adopt the national law approach to mandatory reporting by treating practitioners as provided for in the bill. This will ensure that all elements of the mandatory reporting reforms in the bill will apply in Queensland.

I now turn to the government's response to the parliamentary committee's report. I note the committee recommended the bill be passed. The committee's other recommendation was that I advise the House of the scope and timing of the proposed education program to raise awareness and understanding of the proposed mandatory reporting requirements. Education about the changes to the mandatory reporting framework are integral not only to help practitioners understand the mandatory reporting reforms but also to address some of the broader challenges health practitioners have in accessing health care.

A comprehensive education program is also important to address some of the misconceptions and misinformation that is presently being circulated about mandatory reporting. A number of public comments about the bill have unhelpfully given the impression that mandatory reporting of impairment by treating practitioners is new or that the bill requires more reporting by treating practitioners than is currently required. That is simply not the case, and anyone who keeps peddling this falsehood is scaring health practitioners out of getting help.

A comprehensive education campaign will need to not only educate practitioners and other stakeholders about the reforms but also address the broader cultural and institutional factors that prevent medical professionals from seeking help. To be successful, it will require the support of professional associations who can help change the culture and attitudes that prevail among health practitioners when it comes to looking after their own health and wellbeing.

Legislation on its own cannot change ingrained attitudes and culture. At the COAG Health Council, Australian health ministers agreed to direct AHPRA to work with relevant regulatory bodies and employers to develop a communication and awareness plan about the reforms. The proposed education campaign will aim to inform registered health practitioners of the importance of managing their health and wellbeing, raise awareness and understanding of the mandatory reporting requirements, and reassure registered health practitioners that the amendments to the national law are designed to help practitioners to seek help for their health and wellbeing when needed.

The target audience for the education campaign will include all registered health practitioners, including both treating practitioners and practitioners who may need treatment. The campaign will also target professional bodies, including peak professional associations and professional and specialist colleges; professional indemnity providers; and employers and health services. AHPRA has advised that case studies and examples will be used in educational materials to explain the reforms and dispel myths related to mandatory reporting requirements and outcomes.

Subject to the passage of the bill, the national boards will need to develop and consult with stakeholders about revised guidelines for mandatory reporting. The education campaign will be led by AHPRA and be delivered in late 2019 or early 2020.

Although generally supportive of the bill, the LNP members of the committee recommended that the House consider adopting a modified version of the Western Australian model which would provide a complete exemption from mandatory reporting by treating practitioners with the exception of reporting of sexual misconduct. Despite requests from the committee, stakeholders were unable to provide any reliable evidence to support their claim that a complete exemption from mandatory reporting will lead to better health outcomes for health practitioners or for patients than the approach provided for in the bill. What we do know, though, is that the number of mandatory reports made by treating practitioners across all states and territories is very small.

All Australian state and territory health ministers and the Commonwealth health minister gave careful consideration to the Western Australian response but rejected it before agreeing to adopt the reforms in the bill. The primary reason for rejecting the Western Australian approach is that health ministers were not convinced that a complete exemption would provide adequate protection for the public. The parliamentary committee also agreed that this is the right approach after its thorough examination of the bill. I believe these reforms protect the rights of health practitioners to seek treatment for their own health and wellbeing while also protecting the safety of health consumers.

Through a balanced and holistic approach to mandatory reporting by treating practitioners, this bill will make it easier for health practitioners to seek treatment for their health issues, including mental health issues, and will send a clear signal that no health professional should suffer silently with an impairment because they are afraid to seek help or to be open and honest with their treating practitioner. At the same time, the bill will ensure that regulators continue to be provided with reports to identify practitioners who could jeopardise public safety.

Stakeholders have an important role to play in bringing about cultural change. This begins with educating practitioners about the reforms to mandatory reporting and the very real opportunities they provide for practitioners to seek treatment. I commend the Australian Medical Association and other stakeholders who, despite having advocated strongly for a different model, have recognised that the bill

is an improvement on current mandatory reporting arrangements. I look forward to working with the AMAQ to raise awareness of these reforms and assure Queensland's health practitioners that it is okay to ask for help. I commend the bill to the House.