




Speech By
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HEALTH PRACTITIONER REGULATION NATIONAL LAW AND OTHER LEGISLATION AMENDMENT BILL

 **Ms PUGH** (Mount Ommaney—ALP) (4.59 pm): I rise to contribute to the health practitioner bill. I begin by providing a brief overview of its history in the national context. Way back in 2014, health ministers commissioned an independent review of the national scheme. That review made 33 recommendations and led to additional reviews into specific aspects of the national scheme and the national law.

In 2017 the first stage of reforms was passed by the Queensland parliament, supported by all Australian states and territories. This included amendments to provide for the national regulation of paramedics. In 2019 the national law was further amended to clarify the mandatory reporting obligations of treating practitioners and to increase penalties for persons who unlawfully hold themselves out as registered health practitioners. These amendments were fast-tracked ahead of the second stage of amendments contained in this bill.

Building on these initial reforms, in November 2019 Australian health ministers approved preparation of a second stage of amendments to the national law. On Valentine's Day 2022, after extensive interjurisdictional collaboration, the final forms of the amendments were approved on behalf of all Australian governments.

I would like to touch on the scheduled medicine offences. We know that the bill amends section 130 of the national law to require health practitioners and students to report to the relevant national board charges and convictions of offences related to regulated medicines and poisons. This amendment was recommended by the Queensland Office of the Health Ombudsman in its *Investigation report: Undoing the knots constraining medicine regulation in Queensland*, which highlighted the risks that drug impaired practitioners can present to themselves and to the public.

Some of the offences related to regulated medicines and poisons, also known as scheduled medicines, are punishable by payment of a fine rather than imprisonment and are therefore not reportable under our existing legislation. As a result, the national boards may not even be notified of a practitioner's or student's scheduled medicine offence history even though it may be relevant to the person's suitability to hold registration. Early reporting of these offences will allow the national boards to respond quickly to risks posed to the public by practitioners or students who misuse scheduled medicines.

As there are significant differences in the types of offences that exist throughout Australia in the different jurisdictions under the medicines and poisons laws, the bill will allow participating jurisdictions to declare that offences defined under the law of that particular jurisdiction are not scheduled medicine offences for the purposes of reporting requirements in the national law. This will ensure that the new reporting requirements relate to relevant offences and are no broader than necessary to protect the public. To enliven this provision in Queensland, the bill inserts a general regulation-making power into

the Queensland national law legislation. This will ensure that regulations can be made in the future if necessary and aligns Queensland with most other jurisdictions which already have a general regulation-making power under the national law.

I now turn to the parts of the bill which pertain to removing the prohibition on testimonials and how that interrelates in some parts of the medical community with wider testimonials as well. For many services, testimonials and feedback from family, friends and sometimes the internet and the wider social media network are a critical part of many people's decision-making process. To better balance public protection and consumer preferences, the bill amends section 133 of the national law to remove the prohibition against using testimonials in advertisements about regulated health services.

The prohibition is out of step with consumer expectations and current marketing and advertising practices. We know that testimonials and reviews are incredibly common online and that new forms of advertising, particularly on social media, have blurred the lines between information and advertising. For many sectors, consumers increasingly expect to have access to accurate—and that is a key word—reviews and testimonials when purchasing and selecting their health services, and they expect to be able to share their views about health services and practitioners.

As a result of the amendment, testimonials will be treated the same as other forms of advertising. This is consistent with the treatment of testimonials under general consumer law. Advertisements, including those that use testimonials, will be prohibited if they are false, misleading or deceptive; if they offer a gift or inducement without stating those terms and conditions; if they create an unreasonable expectation of a beneficial treatment—and I will touch more on that later; or if they encourage the unnecessary use of regulated health services.

In reflecting on my own and thankfully very limited experience in engaging health professionals and that of my peers and family, I know that, whether it is formal or informal, when you are considering how to engage a healthcare professional, seeking feedback from family, friends and your wider networks is incredibly common. When you are putting your body and in some case your life in somebody else's hands, you want to make sure that you have every possible accurate assurance that you are making a good choice. In fact, yesterday I had a sit-down and a really good think about the last time I selected a medical professional without getting feedback from my peers and family and friends, and I actually cannot think of any.

If the matter is private, however, you may not feel comfortable asking family and friends. That is where testimonials can play a really critical role. It is vital that those testimonials are properly regulated—as well as looking to other forms of public feedback. As I said, it is critical to ensure that testimonials are properly regulated, just as advertising needs to be. It is important to note that many people may be unduly influenced by unregulated testimonials. That is why we need these safeguards in place.

In the time since I was a really young woman in my late teens, social media has taken on a huge significance in our society and a huge role also in spreading misinformation. If I wanted to feel inadequate about my own body in my late teens, I had to settle for reading *Cosmo* because there was no Facebook, Instagram or social media. I am pretty glad about that, I have to say!

Mr Whiting interjected.

Ms PUGH: I am sure that is what the member for Bancroft would do, too! It really does disturb me how many social media figures are not completely truthful about why they look the way they do. Historically, having had cosmetic enhancement procedures is not something that a lot of people would admit to. That is a shame, because it is important that we are up-front about what is achievable through sleep, sunscreen and a vegan diet with lots of water and what is not. I am particularly concerned for younger generations who may have taken social media influencers at their word—people like Kylie Jenner, who said for quite a while that the secret to her good looks was not cosmetic surgery but make-up you can buy. I accept that low self-esteem may have played a role in Ms Jenner's decision, but I think if you are benefiting financially from that decision to mislead the public that trumps any other issue. I am keen to see that regulated.

Honesty in influencing and testimonials is vital if we are to effectively ensure that people decide whether they are going to get cosmetic procedures or cosmetic surgery. We need to be clear about what surgery or procedures can achieve and what make-up can achieve. I know that the role of social media influencers is not within the scope of the bill, but there is a strong relationship that we may need to consider.

It is important to note that when it comes to the cosmetic surgery industry there is ongoing work at the national level—and rightly so. Recent reports on the cosmetic surgery industry have rightfully raised concerns in this sector. We need to see that these procedures are well regulated and that there is truth and transparency in testimonials and advertising. I look forward to seeing the outcome of that work. With those few words, I commend the bill to the House.