




Speech By
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MEMBER FOR BONNEY

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HEALTH PRACTITIONER REGULATION NATIONAL LAW AND OTHER LEGISLATION AMENDMENT BILL

 **Mr O'CONNOR** (Bonney—LNP) (2.15 pm): Most of the Health Practitioner Regulation National Law and Other Legislation Amendment Bill is uncontroversial and necessary, and that is why we will not be opposing it as a whole. This bill includes faster rejections of false registrations, reforms around suspended practitioners, expanded interim prohibition orders, more disciplinary action powers for lapsed registrations and increased penalties for breaching advertising restrictions. We support the increased penalties issued by the Office of the Health Ombudsman, more transparent reporting of charges and convictions of regulated medicines and poisons offences and the many other administrative changes which make sense for our health system.

This bill will help better regulate how things operate and I am sure that all members received a lot of correspondence into their electorate office inboxes. The member for Southern Downs was just telling me how thankful he was for all of the emails that he received from his constituents and I want to thank everyone who got in touch with me as well about this bill.

There are two aspects of this legislation which we do have issues with. The member for Southport and I outlined these in our statement of reservation in July when the committee's report was finalised, so I will focus my contribution on those matters—that is, the natural justice concerns and the removal of the prohibition on testimonials, noting that in the case of the latter the health minister will be proposing to omit that particular change from this bill through an amendment.

Firstly on natural justice, we have concerns around statements being put out about individual practitioners before proper investigations are completed. Without a proper investigation, we cannot know whether the claims made are substantiated. The statements could do significant professional, reputational and emotional harm to a practitioner, so we need to be very careful with how we regulate this. At the public hearing the Australian Medical Association of Queensland confirmed that allowing a practitioner seven days to respond to an allegation and three days notice to publish instead of the proposed single day would be its preferred outcome. However, it did make it clear that it believed that public statements do go in the wrong regulatory direction generally. AMA President Dr Omar Khorshid said that the longer time frame suggested—

... does not put the public at any increased risk and would give the practitioner a reasonable opportunity to respond.

In terms of the state government's proposed and now foreshadowed to be amended removal of the ban on testimonial advertising, there was near unanimous support among stakeholders that this was a bad idea and that it would not lead to better outcomes for Queensland patients and that there was clear evidence that it would have the potential to do a lot of harm. The key reason for this is that Ahpra struggles to regulate the current environment, and that is an understatement. Anyone who watched the *Four Corners* investigation 'Cosmetic Cowboys' will know that there is practically no proactive enforcement happening in the lucrative and fast-growing cosmetics industry.

At this point I want to make mention of consumer advocates and a constituent of mine Michael Fraser and his colleague Maddison Johnstone for their huge amount of work to expose this. At the very least, keeping the ban on testimonials sends a clear message that the risk of misuse is too high. It allows practitioners to know what is and is not allowed. We will always get bad eggs, but it is a huge incentive for them to do the right thing and to comply with the law as it stands if we keep this ban on testimonials. Ahpra and the related regulatory bodies barely regulate the current rules on advertising, so removing the ban would have made it more of a free-for-all and it is clear that a lack of resourcing to enforce the current regulations is a massive issue.

This is important because we are talking about procedures that in some cases have a one in 3,000 mortality rate. It is serious stuff. Social media has made Ahpra's job a lot harder. It is so easy for someone to post about their experience now. There are testimonials that are already occurring. Influencers, for example, are making you think that you might need one of these procedures to look like them. I have heard reports of people who are getting discounts if they post about the cosmetic work that they have had done and give a shout-out to the surgeon or the surgery. The doctor will then share these posts as a positive commentary on their work. That is happening under the current system.

In our public hearings the president of the Australian Society of Plastic Surgeons, Dr Daniel Kennedy, raised the issue of the information given to prospective patients needing to be based on research and to be scientifically sound. That is in the context of a public who, as we know, generally have a very limited scientific literacy at this level. Most people cannot easily discern what a reliable source is, especially when it comes to medical procedures and practitioners. Regulation is what they rely on to define that baseline. The idea of a free-for-all, getting the regulations wrong, opens people up to potential abuse.

In our hearings Dr Kennedy talked about the need for a clear distinction between information and enticement, for 'when people are seeking to influence a patient who is not otherwise considering a procedure to have that procedure, whether it be directly in the wording of their website or whether it be in response to a post that a patient has made, it can be very problematic and damaging to that person's psyche.' The potential to mislead here is enormous. Can your average consumer really make an assessment over how a medical practitioner is able to perform a service? Do they have the right background knowledge to make an assessment like that? I would argue it all looks the same to them. It is hard to tell the difference between a particular surgery or a particular practice, so no consumer could ever be fully aware of what is good or bad. Regulating testimonials less would have only made that more difficult.

As we considered this bill we heard Ahpra say, essentially, it is all fine because it is not a complete removal of testimonials, and misleading and deceptive testimonials would still be banned. Again I reiterate that they are barely regulating or enforcing the current rules on testimonials. They did use the comparison of the ACCC, which is also not putting a blanket ban on testimonials, but I think this does not take into account the special nature of these medical testimonials and the potential harm they could cause so many people. It is clear from what I have seen that Ahpra does not adequately monitor the cosmetic industry—in fact, that is an understatement. This means the industry falsely looks better than it is because penalties are not being issued where they almost certainly should be.

We do not oppose this bill. As a committee member I will say it is nice to have our statement of reservation acknowledged with the amendment proposed and to have at least one of our issues with the bill removed. I conclude by sincerely thanking the hardworking health practitioners that I represent in my part of the Gold Coast.