




Speech By
Hon. Yvette D'Ath

MEMBER FOR REDCLIFFE

Record of Proceedings, 12 October 2022

**HEALTH PRACTITIONER REGULATION NATIONAL LAW AND OTHER
LEGISLATION AMENDMENT BILL**

Second Reading

 **Hon. YM D'ATH** (Redcliffe—ALP) (Minister for Health and Ambulance Services) (3.30 pm): I move—

That the bill be now read a second time.

I would like to acknowledge the work of the Health and Environment Committee in considering the Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2022. I would also like to thank the many individuals and organisations in Queensland and across the country who assisted the committee's inquiry and participated in consultation on the bill.

On 1 July 2022, the committee tabled its report on the bill which contains two recommendations. The committee's first recommendation is that the bill be passed. The committee's second recommendation is that the Minister for Health and Ambulance Services undertake not to commence certain amendments in the bill about health service advertising until the independent review of the regulation of health practitioners in cosmetic surgery is complete and the Australian Health Practitioner Regulation Agency publishes updated guidelines and educational materials on health service advertising.

I table the government's response to the committee report. The government accepts the committee's recommendations in principle. I will say more about this shortly.

Tabled paper: Health and Environment Committee: Report No. 21, 57th Parliament—Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2022, government response [1640](#).

The bill contains the second stage of amendments to the Health Practitioner Regulation National Law. The amendments were approved by all Australian health ministers in February 2022 following extensive policy development, legislative drafting and consultation.

Before turning to the specifics of the bill and the committee's report, I would like to acknowledge the significance of the National Registration and Accreditation Scheme for the health professions and the importance of ensuring that it remains up to date and fit for purpose. Over a decade ago, state and territory governments embarked on a historic and ambitious agenda to establish a unified national scheme for the registration and accreditation of Australia's health professions. These efforts culminated in the adoption of the national law by all states and territories in 2009 and 2010.

Today, the national scheme is well established and its benefits are widely acknowledged. The scheme supports world-class professional education and training and ensures that all health practitioners, regardless of where they are registered in Australia, are held to the same high professional standards and obligations. It provides fair and transparent processes for identifying and resolving

concerns about practitioner conduct, health and performance. It includes crucial public protections including provisions that restrict the use of professional titles and prohibit business practices that could compromise clinical independence and patient care.

Like any complex scheme, the national law must be kept up to date so that it can continue to meet its objectives. The bill amends the national law to implement a broad range of updates and reforms to the national scheme. The amendments build on previous reforms in 2017 and 2018.

The central aim of the bill is to strengthen public safety and confidence in health services provided by registered health practitioners. This will be accomplished through a range of measures including amendments that will refocus the guiding principles and objectives of the national law and provide regulators with new tools to proactively identify and respond to risks. The bill amends the guiding principles of the national law to make public safety and confidence the paramount consideration in administering the law.

The new paramount guiding principle acknowledges that community confidence in the health professions is important to achieving good health outcomes. It will set a clear expectation for all national scheme entities to place public safety and public confidence foremost in all decisions and actions under the national law. This will encourage a responsive, risk-based approach to regulation across all aspects of the national scheme.

In keeping with the new paramount principle, the bill also inserts a separate guiding principle and objective to support cultural safety and positive health outcomes for Aboriginal and Torres Strait Islander peoples. The new principle and objective will set clear expectations for the national scheme to foster a culturally safe and respectful health workforce that is responsive to Aboriginal and Torres Strait Islander peoples and their health. This amendment is an important step towards national health equity and aligns with Queensland's commitment to improving health equity for Aboriginal and Torres Strait Islander peoples.

While the vast majority of registered health practitioners practise safely, there will always be those who fail to live up to their professional obligations and may place patients and the public at risk. The bill includes new powers that will assist regulators to identify potential risks and take proactive steps to protect the public from harm, while continuing to provide procedural fairness to practitioners.

Under amendments in the bill, a national board will be able to notify a practitioner's employer or associates during an investigation if it reasonably believes the practitioner poses a serious risk of harm to persons or the public. This power, which is already available to the Health Ombudsman in Queensland, will ensure that national boards can alert employers and other relevant persons as soon as possible so they can take immediate steps to mitigate risks and reduce harm.

In exceptional circumstances, the Health Ombudsman or Ahpra will also have the power to issue a public statement to alert the community to serious public health risks. For example, if an investigation revealed a practitioner failed to follow sterilisation procedures and may have exposed patients to a serious communicable disease, the Health Ombudsman or Ahpra would be able to notify the community of the potential health risk while also undertaking disciplinary proceedings against the practitioner.

As the committee noted in its report, issuing a public statement is a powerful regulatory response and must be exercised cautiously to avoid unfairly damaging a practitioner's professional reputation. For this reason, the bill defines this power narrowly and includes important protections. A public statement can only be made about a practitioner who is under investigation or subject to disciplinary proceedings or who is reasonably suspected of contravening a relevant provision of the national law.

Also, a public statement can only be made if the practitioner's behaviour poses an objectively serious risk to persons. Further, the regulator must reasonably believe that issuing a public statement is necessary to protect public health or safety. Before a public statement can be issued, a practitioner is entitled to a show cause process and the opportunity to seek urgent relief from a court or tribunal.

Another key public protection measure in the bill is the new power for Ahpra and the national boards to issue interim prohibition orders to unregistered practitioners. In Queensland, the Health Ombudsman already has this power and will continue to be responsible for issuing an interim prohibition order in most instances. However, there may be cases where it is appropriate for Ahpra to issue an interim prohibition order to protect the public.

Continuing the theme of public protection, the bill includes amendments to improve the regulation of health service advertising under the national law. To protect patients' ability to make informed choices about their care, the national law restricts how health services can be advertised. It bans advertisements that are false, misleading or deceptive, create an unreasonable expectation of beneficial treatment, include improper inducements or encourage unnecessary health services. To strengthen these

important health consumer protections, the bill increases the maximum penalties for persons who breach advertising restrictions from \$5,000 to \$60,000 for individuals and from \$10,000 to \$120,000 for bodies corporate.

The national law also includes a ban on the use of patient testimonials to advertise health services, regardless of whether the testimonial is truthful or accurate. The bill as introduced removes this ban, with the effect of regulating testimonials the same way and with the same consumer protections as all other health service advertising. During the committee's inquiry, stakeholders raised concerns about advertising for cosmetic surgery, including the potential for fake or misleading testimonials to improperly influence vulnerable people into choosing a medical practitioner or procedure based on unreliable or incorrect information.

The committee recommended waiting to commence the testimonial amendments until after an independent review into the regulation of cosmetic surgery was completed and any accompanying guidelines and educational material were published. The independent review was commissioned by Ahpra and the Medical Board of Australia and on 1 September 2022, its findings and recommendations were released. Some of the findings in the review mirrored the concerns about testimonials raised by stakeholders during the committee process.

All Australian health ministers have unanimously agreed to take urgent action to increase protections for people considering or undergoing cosmetic procedures. This includes: endorsing Ahpra and the Medical Board to crack down on misleading advertising in the cosmetic sector; strengthening regulatory guidance and complaints mechanisms; and credentialing providers of cosmetic procedures. Ministers have also agreed to expedite legislation to ensure that anyone calling themselves a cosmetic surgeon has the requisite training and qualifications.

To ensure amendments to advertising laws are consistent with these future actions and reforms, I will be moving amendments during consideration in detail to withdraw the provisions of the bill removing the blanket ban on testimonials. The issue of patient testimonials will be reviewed as part of the wider measures to improve safety in the cosmetic sector. This also addresses the substance of the committee's second recommendation in its report on the bill. My state, territory and federal counterparts support this change to the bill, which was endorsed at the health ministers' meeting on 2 September 2022.

In addition to the reforms I have already mentioned, the bill includes a range of other measures to enhance public safety and confidence under the national scheme. For example, the bill implements a recommendation of the Health Ombudsman to require registered health practitioners to notify national boards if they are charged or convicted with a scheduled medicine offence. While the bill's central focus is to enhance public safety and confidence, it also includes many reforms and improvements to other aspects of the national scheme.

Several reforms will be made to the process for registering health practitioners. One of these will allow national boards to withdraw a practitioner's registration if it was obtained through false or misleading information. This will avoid the need to refer these matters to a responsible tribunal, which is costly and time-consuming, and will ensure the integrity of the registration process. The decision to withdraw a practitioner's registration will be appealable to a responsible tribunal. National boards will also have the flexibility to accept undertakings from practitioners as part of the registration process, which will provide an alternative to imposing conditions on a practitioner's registration in appropriate circumstances.

The bill will also improve the processes by which Ahpra and the national boards manage notifications about registered health practitioners. National boards will be able to obtain relevant records and information during the early stages of assessing a notification. This will allow many matters to be resolved quickly and without costly investigations and proceedings. Also, national boards will no longer be required to refer matters to a tribunal when there is no public interest in doing so, which will allow resources to be redirected to higher-risk matters. Further, national boards will have more flexibility to coordinate the management of notifications with other entities that have oversight of registered health practitioners, which will improve efficiency and regulatory outcomes.

The bill will also enable the ministerial council to delegate its power to approve registration standards to an appropriate entity, provided the power is not further delegated and remains subject to ministerial council oversight. This is expected to reduce the time taken to approve routine updates and other necessary changes to registration standards.

To ensure Queensland's co-regulatory arrangements continue to operate effectively, the bill includes amendments to the Health Ombudsman Act 2013 and modifies how some of the national law reforms will apply in Queensland. These amendments are necessary to ensure the amendments to the national law will operate as intended under Queensland's co-regulatory framework.

In closing, the national scheme provides the foundation for the safe and effective regulation of Australia's health professions. It is integral to delivering positive health outcomes and ensuring that our nation's health system remains among the best in the world. Over the years the national scheme has undergone significant review and reform. This bill builds on these efforts, ensuring the scheme remains able to meet new challenges and continues to place patients and public protection at the forefront of regulatory decisions.

Reforms to national scheme legislation do not happen easily. The reform process has required a tremendous amount of work by health departments, regulators and jurisdictional officers to develop and shape the reforms in this bill over a period of many years. It has also required extensive and ongoing engagement with health sector stakeholders and the broader public. Given that much of this work has occurred during the most challenging public health crisis of our lifetime, it is a further testament to the dedication and persistence of all those who have contributed to this historic process of reform. Once again I extend my sincere appreciation to all Australian health ministers for their commitment to improving the national scheme and the spirit with which they have approached these reforms.

Finally, I wish to acknowledge the great debt we owe to our nation's registered health practitioners, who have not only stepped up during the pandemic but also work tirelessly every day to improve the health and lives of people across our community. I commend the bill to the House.