




Speech By
Hon. Yvette D'Ath

MEMBER FOR REDCLIFFE

Record of Proceedings, 20 April 2023

HEALTH PRACTITIONER REGULATION NATIONAL LAW (SURGEONS) AMENDMENT BILL

Introduction

 **Hon. YM D'ATH** (Redcliffe—ALP) (Minister for Health and Ambulance Services) (11.15 am): I present a bill for an act to amend the Health Practitioner Regulation National Law Act 2009 for particular purposes. I table the bill, the explanatory notes and a statement of compatibility with human rights. I nominate the Health and Environment Committee to consider the bill.

Tabled paper: Health Practitioner Regulation National Law (Surgeons) Amendment Bill 2023 [520](#).

Tabled paper: Health Practitioner Regulation National Law (Surgeons) Amendment Bill 2023, explanatory notes [521](#).

Tabled paper: Health Practitioner Regulation National Law (Surgeons) Amendment Bill 2023, statement of compatibility with human rights [522](#).

The main purpose of the Health Practitioner Regulation National Law (Surgeons) Amendment Bill 2023 is to protect the title 'surgeon' within the medical profession. This will ensure that doctors who call themselves a 'surgeon' have the level of advanced surgical training that is reasonably expected by health consumers. Protecting the title 'surgeon' has been agreed by all health ministers across Australia. It is a commonsense reform to improve public safety and confidence in the medical profession.

The bill is a direct response to the recognised confusion around use of the title 'surgeon', particularly in the cosmetic surgery sector. Feedback on a consultation regulation impact statement confirmed widespread confusion around use of the title 'surgeon' in the cosmetic surgery sector. The public reasonably assumes that doctors calling themselves a 'surgeon', or a 'cosmetic surgeon' or an 'aesthetic surgeon' have at least a minimum level of advanced specialist surgical training. However, this is not always the case. Currently, any registered medical practitioner may refer to themselves as a 'surgeon', even if they are not registered in a surgical specialty and have not completed any significant postgraduate surgical training.

Protecting the title 'surgeon' is just one of several urgent actions Australian health ministers are taking to strengthen the regulation of cosmetic surgery in Australia. Other actions include reviewing licensing standards for private facilities where cosmetic procedures are performed; delivering a public education campaign to help prospective patients understand the risks of cosmetic surgery and how to choose an appropriate health practitioner; and establishing an endorsement to credential providers of cosmetic procedures that have appropriate education and training.

Protecting the title 'surgeon' complements these other actions and ensures that patient safety is paramount. Title protection also sends a clear message that any attempt to mislead patients as to a practitioner's qualifications or experience will not be tolerated.

The Health Practitioner Regulation National Law sets out the legal framework for regulating the health professions across Australia. The national law uses a 'protection of title' model which restricts who can use certain professional titles. Recent reviews into the regulation of cosmetic surgery in Australia demonstrate a need to strengthen title protections under the national law. There is a need to ensure that medical practitioners using the title 'surgeon' possess the degree of advanced surgical training and qualifications that health consumers already assume and should reasonably be able to expect.

The bill will make it an offence for a medical practitioner who is not a member of an approved surgical class to knowingly or recklessly use the title 'surgeon', or to otherwise hold themselves out as being a surgeon. The bill will also prevent employers and other people from falsely claiming a medical practitioner is a 'surgeon'. The new offences are indictable and carry a maximum penalty of \$60,000 or three years imprisonment for an individual or \$120,000 for a body corporate. These are the same as the penalties for the existing national law offences relating to misuse of professional and specialist titles.

The proposed amendments will protect use of the title 'surgeon' both in isolation and in combination with other words. This means that titles such as 'cosmetic surgeon' and 'aesthetic surgeon' will be subject to the same restrictions as the generic title 'surgeon' and can only be used by medical practitioners within the approved surgical classes. Restrictions on use of the title will not apply to the use of specialist titles such as 'specialist plastic surgeon' or 'specialist orthopaedic surgeon'. Existing provisions of the national law already protect and reserve the use of specialist titles for practitioners who hold registration in the relevant specialties.

The use of the title 'surgeon' will also not be restricted for practitioners outside of the medical profession such as dentists and podiatrists. The national law in general already prohibits use of the title 'surgeon' by non-medical practitioners because it could be reasonably expected to lead someone to believe that the person is registered in the medical profession when they are not. However, there are some limited circumstances in which it is lawful for a non-medical practitioner to use the title 'surgeon'. For example, registered podiatrists who hold specialist registration in podiatric surgery are entitled to refer to themselves as 'podiatric surgeons'. Similarly, the title 'oral surgeon' is approved for use by members of the dental profession who hold specialist registration in that field, and for historical reasons some dentists may still use the informal title 'dental surgeon' in their practice. The bill will not prevent these accepted uses of the title.

The bill sets out the initial classes of doctors who will be permitted to use the title 'surgeon'. The bill will also allow health ministers to prescribe additional classes by regulation if needed. Initially, the only doctors who will be able to use the title 'surgeon' are those who hold registration in one of three recognised medical specialties: surgery, obstetrics and gynaecology, and ophthalmology. To be registered in these specialties a medical practitioner must have successfully undertaken significant specialist surgical training accredited by the Australian Medical College or equivalent training in the case of international medical graduates. Practitioners in these specialties often practise sophisticated surgery as part of their normal scope of practice.

In prescribing any additional classes of medical professions that can use the title 'surgeon', Australian health ministers must have regard to any advice of the Medical Board and the level of surgical training required to be undertaken by a member of the proposed class. The Medical Board is the primary regulator of medical training, accreditation and registration standards in Australia. As such, it is the appropriate body to advise ministers about the surgical training of proposed classes of doctors.

Separately, the bill makes minor amendments to clarify tribunal decision-making under the national law. The amendments will resolve a split in the interpretation of tribunal decision-making powers by clarifying an ambiguous provision. This clarification is consistent with the interpretation that has been given by the Queensland Civil and Administrative Tribunal, which supports the amendment.

The bill also amends the definition of 'prohibition order' in the national law. The amendment will mean that tribunal imposed restrictions on a practitioner's practice are treated the same as tribunal imposed prohibitions. A tribunal order imposing restrictions on a health practitioner's practice will be reflected on public registers and enforceable in the same way as prohibitions on practice. This will improve transparency for health consumers and ensure that violations of such orders are subject to proper penalties.

The Palaszczuk government is committed to prioritising the public health and safety of all Queenslanders. Surgeons hold particular esteem in the public's mind, but when it comes to cosmetic procedures it is clear that some clinicians have been betraying the trust of their patients. By holding

themselves out as surgeons without having the true qualifications of a surgeon, these clinicians could potentially mislead patients and induce them into a procedure they might not have otherwise consented to.

Some of the stories are shocking: a clinician instructing their staff to understate the recovery time on major cosmetic procedures so that patients do not get scared; a clinician whose patients reported being in extreme pain postprocedure, developing fevers and infections, and having their wounds splitting open postprocedure; allegations being made that malpractice by clinicians led to haemorrhage; excessive tissue trauma infection; scarring and local anaesthetic toxicity leading to cardiac arrest; pneumothorax; and loss of life.

It has been a matter of concern to health ministers across the country that any medical professional performing cosmetic surgery could refer to themselves as a surgeon. We held concerns that the use of the term 'surgeon' could provide false confidence to members of the public as to the experience and competency of professionals performing medical procedures. Given the shocking harm that has been observed as a consequence of these procedures, the measures contained in this bill provide an important additional safeguard to consumers so they can make an appropriately informed decision about whether they truly believe the procedure they are seeking is being performed by a properly skilled professional. This bill will allow the public to be confident that any medical practitioner using the title 'surgeon' has the appropriate level of surgical training to safely perform surgical procedures.

This is a commonsense reform that will improve the quality of information available to help people choose appropriate healthcare providers for themselves and their families. It also respects the hard work, dedication and years of training that are required of surgeons working across Australia. I commend the bill to the House.

First Reading

Hon. YM D'ATH (Redcliffe—ALP) (Minister for Health and Ambulance Services) (11.24 am): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Referral to Health and Environment Committee

Mr DEPUTY SPEAKER (Mr Martin): In accordance with standing order 131, the bill is now referred to the Health and Environment Committee.