

MEDICAL ACT 1894, REPLACEMENT

Statement by Minister for Health

MR R.C. KUCERA (Yokine - Minister for Health) [2.12 pm]: I am pleased to inform the House that yesterday Cabinet approved the drafting of contemporary legislation to replace the Medical Act 1894. This Act is the oldest extant medical practitioner legislation in Australia. It establishes the Medical Board of Western Australia and confers two principal statutory functions on the board; namely the registration and disciplining of doctors.

The Act has been the subject of two major reviews in the past 15 years. The first was concluded in 1993 but did not result in legislative change. The second was commissioned by the former Government in 1997 and was tasked with producing proposals for a new medical Act, taking account of the first review and also, importantly, of the State's legislation review obligations under the national competition policy. The second review was undertaken by a working party chaired by Professor Bryant Stokes, the former Chief Medical Officer, with members drawn from the Medical Board, the Health Consumers' Council WA, the medical profession, and the Department of Health. Medical and health consumer groups were significantly involved in the development of the working party's final recommendations to government following extensive consultation. I table a copy of the final recommendations report produced by the working party.

[See paper No 1198.]

Mr R.C. KUCERA: This is a considerable body of work detailing recommendations for new legislation to replace the Medical Act 1894. Among the improvements and reforms will be a change to the Medical Board's role in regulating medical practice through the exercise of its disciplinary powers. The report notes that the medical practitioner legislation in other States typically incorporates a two-tiered system for handling complaints against doctors - a less formal process for handling lower level complaints, and a more formal process for handling more serious complaints. In New South Wales, Queensland and South Australia, this second tier function is performed by independent medical disciplinary tribunals, an approach recommended by the working party.

Subsequent to the completion of the Medical Act review, the Government has proceeded with the establishment of a State Administrative Tribunal for Western Australia. The Government's view is that SAT can perform the functions the Medical Act review contemplates being undertaken by an independent medical tribunal. The broad allocation of disciplinary jurisdiction between the Medical Board and a higher level tribunal has been accepted by government and will therefore proceed. This will see a broadening of the grounds for regulatory action under a new medical Act and the tailoring of investigative and regulatory responses, depending upon whether complaints or concerns relate to a doctor's health, competence or professional conduct. These changes will be directed at ensuring greater transparency and responsiveness for the handling of complaints against doctors.

The Medical Act review has also made a number of recommendations concerning the involvement of corporate entities in providing or managing medical services. The Government has not accepted this element of the review's recommendations, but will instead consult further with health consumers, the medical profession and the corporate sector on the need to apply regulation in this area.

A medical practitioners registration Bill will now be drafted to implement those of the Medical Act review's recommendations that have been accepted by government. It is hoped to have this Bill ready for introduction later this year. The development of new medical practitioner legislation for Western Australia has had a long genesis. I know that in broad terms consumer and medical groups support the outcome of the Medical Act review. I am grateful to Professor Stokes and other members of the review team for providing firm foundations for a new Act, which all will agree is long overdue.