

**HEALTH PRACTITIONER REGULATION NATIONAL LAW (WA) BILL 2010**

*Introduction and First Reading*

Bill introduced, on motion by **Dr K.D. Hames (Minister for Health)**, and read a first time.

Explanatory memorandum presented by the minister.

*Second Reading*

**DR K.D. HAMES (Dawesville — Minister for Health)** [12.34 pm]: I move —

That the bill be now read a second time.

This bill seeks to effect in Western Australia the Health Practitioner Regulation National Law. The national law is being introduced into WA Parliament as corresponding law. That means if amendments are proposed to the national law, they must be introduced and passed by the Parliament in WA before they can be enacted in this state. The process for amending the national law is set out in the intergovernmental agreement that was signed by the Council of Australian Governments on 26 March 2008. The national law sets out the regulatory structure for the new National Registration and Accreditation Scheme for the Health Professions. The national law puts into action the undertaking made by COAG to start the national scheme by 1 July 2010. The national scheme creates a single national registration and accreditation system for 10 health professions. These include chiropractors; dentists, including dental hygienists, dental prosthetists and dental therapists; medical practitioners; nurses and midwives; optometrists; osteopaths; pharmacists; physiotherapists; podiatrists; and psychologists. Another four professions will join the national scheme on 1 July 2012. The four professions are the Aboriginal and Torres Strait Islander health practitioners, Chinese medicine practitioners, medical radiation practitioners and occupational therapists. One objective of the national law is to protect the public. It will also provide a framework for the regulation of health practitioners in relation to registration, accreditation, complaints and conduct, health and performance, and privacy and information sharing.

The national law has been developed following an inclusive process that saw high-level involvement from regulatory bodies, practitioners and the public. Over 550 submissions were received from professions, regulatory bodies and the general public. The Australian Health Workforce Ministerial Council considered the submissions. The national law was created incorporating different ideas from those submissions. The national law seeks to deliver real improvements to the quality and safety of Australia's health care system.

Policy issues include public interest: Health ministers confirmed their commitment to advancing the public interest as a fundamental consideration within the national scheme. New provisions relating to mandatory reporting, student registration, criminal history and identity checks, strong community representation on national boards and an easier process for the public to make complaints were all supported. It was agreed to formalise the role of community members on state and territory boards. The national law requires that there is the same ratio of community members on state and territory boards as on national boards. Under the national law, serious complaints in Western Australia—that is, matters that could amount to professional misconduct—will continue to be dealt with by the Western Australian State Administrative Tribunal. On the other hand, the state boards, under delegation from the national board, will deal with matters that relate to unsatisfactory professional performance and unprofessional conduct, as well as matters that are regarded as health issues. This continues the approach that was implemented in WA when the State Administrative Tribunal Act was introduced to ensure that the most serious matters are heard by an independent tribunal.

I will summarise some key features of the national law.

**Mandatory reporting:** There will be a requirement that practitioners and employers, such as hospitals, report a registrant who is placing the public at risk of harm. Reportable conduct will include conduct that places the public at substantial risk of harm either through a physical or mental impairment affecting practice or a departure from accepted professional standards. Practitioners who are practising while under the influence of drugs or alcohol, or who have engaged in sexual misconduct during practice, must also be reported.

**Criminal history and identity checks:** Mandatory criminal history and identity checks will apply to all health professionals registering for the first time in Australia. All other registrants will be required to make an annual declaration on criminal history matters when they renew their registration. These declarations will be audited on a random basis by an independent source.

**Independent accreditation functions:** The accreditation functions of the national boards will be independent of governments. Accreditation standards will either be developed by an independent accrediting body or by the accreditation committee of the national board for the relevant health profession. The final decision on whether the accreditation standards, courses and training programs are approved for the purposes of registration will be

the responsibility of the national boards. The national law clearly sets out the relationship between an accrediting body and a national board to ensure that this relationship works in a fair and effective way. The ministerial council, however, will have the powers to appoint the external accrediting body for a profession when that profession first joins the national scheme. It will also have the capacity to act when, for instance, it believes that changes to an accreditation standard will have a significantly negative effect on the recruitment or supply of health practitioners. In exercising these powers, however, the ministerial council must first consider the potential impact of its decisions on the quality and safety of health care.

Student registration: National boards will be required to register students in the health professions, with this requirement effective at the beginning of 2011. The national boards will decide at what point during their programs of study students will be registered, depending on the level of risk to the public. Students will be registered, in the main, based on lists of students supplied to national boards by education providers. Students already registered under state or territory legislation before the commencement of the scheme will be deemed to be registered from 1 July 2010 to ensure continuity of registration. The national scheme will also enable national boards to act on student impairment matters or when there is a conviction of a serious nature that may impact on public safety.

The Health Practitioner Regulation National Law (WA) Bill comprises five parts and a schedule. The five parts consist of a preliminary part; a part setting out the application of the Health Practitioner Regulation National Law; a part setting out provisions specific to WA; a part containing repeals, transitional and savings provisions; and a part containing consequential amendments. The schedule sets out the national law.

The following are key consequential amendments to WA legislation, including the introduction of a new Pharmacy Act.

Office of Health Review: The Office of Health Review has a role under the Health Services (Conciliation and Review) Act 1995—conciliation and review act—to investigate and conciliate complaints made about registered providers of healthcare services in WA. The title of this act is changing to the Health and Disability Services (Complaints) Act 1995 by an amending bill currently in the Legislative Assembly of this Parliament

During the development of the national law, the relationship between the office and relevant registration boards was reviewed. To provide an additional level of protection, health ministers have agreed that the national law should extend and better define the role of state and territory health complaints bodies in relation to the preliminary assessment of complaints received from the public. Under these arrangements, national boards and health complaints bodies will not only have to inform each other of any complaints received that are relevant to the other, but also must consult each other on the handling of complaints. They must reach agreement on whether a complaint should be taken further by the national board. If agreement cannot be reached, the more serious view of the matter will prevail and the national board will carry the complaint forward on that basis. Therefore, our Office of Health Review will have a crucial role to play with the national boards in the preliminary stage of the investigative process. As a consequence, changes are required to the conciliation and review act to ensure that the office is able to carry out its increased role.

Prescribing for optometrists: The national law provides for a scheduled medicine or medicines endorsement for registered health practitioners. The ministerial council will approve endorsements for registered health practitioners on the recommendation of national boards. A national board may endorse a registered health practitioner—for example, an optometrist—as being able to administer, obtain, possess, prescribe or use a scheduled medicine or class of scheduled medicines if appropriately qualified. The WA Poisons Act 1964 will be amended to provide that a person who is a member of a class of persons prescribed by the regulations is authorised to supply or prescribe a medicine. This will implement a nationally consistent approach to prescribing by all health practitioners.

Registration of pharmacy premises: Western Australia currently regulates pharmacy premises and the ownership of pharmacy businesses under the Pharmacy Act 1964. This bill will repeal the Pharmacy Act. Although most matters concerning the registration of pharmacists will be transferred to the national law, the national scheme specifically excludes the regulation of pharmacy premises and the ownership of pharmacy businesses. The Pharmacy Bill, which establishes the new Pharmacy Act, is being introduced into the Western Australian Parliament and will establish a registration authority to continue the functions of the Pharmaceutical Council of Western Australia under the Pharmacy Act to regulate pharmacy premises and the ownership of pharmacy businesses.

Transitional arrangements for privately practising midwives: The national law contains a transitional clause for privately practising midwives who attend homebirths. This clause will provide those midwives with an exemption from the requirement to hold professional indemnity insurance in order to be registered under the national law. Ministers announced their intent that this transition period should last for no longer than two years following the start of the national scheme. This is to enable work to be carried out to identify a solution to the

issue of privately practising midwives being unable to access appropriate insurance cover. To increase the safeguards in this transition period, health ministers have agreed that relevant midwives will be required to, firstly, provide full disclosure and informed consent in relation to not having professional indemnity insurance; secondly, report each homebirth; and, thirdly, participate in a quality and safety framework.

Registered health practitioners in Western Australia will pay a single registration fee that will entitle them to work throughout Australia without being required to meet additional criteria or pay additional fees.

The WA government would like to thank those health practitioners in WA who have taken an active interest in ensuring that the national law meets the needs of the different professions in WA. I would also like to thank health practitioners in other jurisdictions who have provided feedback and advice on different aspects of the national law. I also congratulate the WA members who have been successful in obtaining a position on the new national and state boards.

The WA government is fully committed to the implementation of the national scheme for health practitioners. The national law contains measures designed to protect both the public and practitioners and to facilitate greater workforce flexibility and mobility. The regulatory framework provides support for standards of excellence in the delivery of services in the WA healthcare system.

I commend the bill to the house.

Debate adjourned, on motion by **Ms R. Saffioti**.