

HEALTH PRACTITIONER REGULATION NATIONAL LAW (WA) AMENDMENT BILL 2017

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Alanna Clohesy (Parliamentary Secretary)**, read a first time.

Second Reading

HON ALANNA CLOHESY (East Metropolitan — Parliamentary Secretary) [6.49 pm]: I move —

That the bill be now read a second time.

This bill seeks to give effect to amendments to the Health Practitioner Regulation National Law (WA) Act 2010 that are made nationally through the Queensland Parliament and adopted in most jurisdictions. The amendments are enacted by regulation in South Australia. This legislation is commonly known as the national law, which commenced in other jurisdictions on 1 July 2010. The WA Parliament passed the Health Practitioner Regulation National Law (WA) Act in 2010 as a corresponding law. When amendments are proposed nationally, they must be introduced and passed in WA before they can be enacted in this state. The Council of Australian Governments signed an intergovernmental agreement on 26 March 2008 that sets out the process for amending the national law. The national law provides the framework for regulating 14 health professions across all jurisdictions, and gives protection of title for these professions. Ten health professions in Western Australia joined the National Registration and Accreditation Scheme—the national scheme. These comprised chiropractors; dental clinicians, including dentists, dental hygienists, dental prosthetists and dental therapists; medical practitioners; nurses and midwives; optometrists; osteopaths; pharmacists; physiotherapists; podiatrists; and psychologists. From 1 July 2012, another four health professions joined: the Aboriginal and Torres Strait Islander health practitioners, Chinese medicine practitioners, medical radiation practitioners and occupational therapists. The national law provides health practitioners with a single registration that is recognised across all Australian states and territories, as well as ensures that there are consistent accreditation and registration standards. Additionally, it includes, amongst other functions, codes, guidelines, national registers, notification requirements and complaint processes.

The intergovernmental agreement requires that an independent review of the national law be conducted after three years of operation. In 2014, Australian health ministers appointed Mr Kim Snowball, a former director general of the Department of Health, to conduct the review. Mr Snowball released a consultation paper in August 2014 and conducted forums in all jurisdictions, enabling interested parties and stakeholders to comment. Following consideration of the 230 written responses to the consultation paper and feedback at the forums, the final report dated December 2014 outlined 33 recommendations being submitted to the Council of Australian Governments Health Council. The COAG Health Council accepted in principle the majority of the recommendations.

The amendments contained in the Health Practitioner Regulation National Law (WA) Amendment Bill are to the national law in Western Australia and reflect those recommendations. The amendments also seek to implement the decision to include paramedics in the national scheme. An additional two sets of amendments resulting in further changes to the national law in Western Australia may be introduced at a later date following further consideration by jurisdictional representatives and agreement by all health ministers sitting as the COAG Health Council. The major amendments that form part of the bill are as follows. In November 2015, the COAG Health Council resolved to include paramedics in the national scheme as their duties include clinical skills, which can be more invasive, and they are required to make urgent clinical assessments in a variety of settings. Accordingly, the bill provides for the establishment of the Paramedicine Board of Australia and for the protection of the title “paramedic”. This reform will ensure that only those persons who are competent to practise and are registered can use the title of paramedic. Paramedics will be required to pay an annual registration fee, to be set by the Paramedicine Board in conjunction with the Australian Health Practitioner Regulation Agency. The fee is not set by the state. The Paramedicine Board will be able to manage the performance of paramedics who engage in professional misconduct, are impaired or practise in an unsafe manner.

The amendments to change the structure of national boards allow the COAG Health Council to combine national boards with a low regulatory burden or to separate them depending on health workforce needs, resulting in efficiencies in governance, membership and cost effectiveness. At this stage, there will be no change to the national boards. National boards and other bodies established under the national law are self-funding from registrants’ fees and are not subsidised by the government.

The independent review’s recommendation of changes to strengthen public protection includes stronger powers to take immediate action in the public interest, to obtain practice information and to issue prohibition orders and improvements to inform notifiers regarding the reasons for the decision made and the actions taken. The amendments provide for national boards to be given discretionary power to inform notifiers at different intervals during the complaints process. Previously, only publicly available information was provided. National boards and the Australian Health Practitioner Regulation Agency will develop a common protocol to ensure that a practitioner’s privacy is not compromised.

Another amendment separates the nursing and midwifery profession to clearly reflect that they are two distinct professions. The Nursing and Midwifery Board of Australia will continue without a name change. Nurses and midwives will not notice a change. Those with qualifications as both nurses and midwives can simultaneously maintain registration in both professions. A WA-specific amendment modelled on a provision in the South Australian national law is also included in the bill to restrict birthing practices to registered medical practitioners and midwives. This involves managing the three stages of labour. Generally accepted as the first stage of labour is the start of regular contractions until the cervix is fully dilated. The second stage is the time from when the cervix is fully dilated until the birth. The third stage is after the birth of the baby, ending with the delivery of the placenta. The independent review recommended that the South Australian model be adopted nationally. A WA coroner supported the proposal in June 2015. Accordingly, WA has included this important amendment.

Birthing practices will be restricted to a health practitioner registered with the relevant national board—medical or nursing and midwifery. This does not prevent other nominated support people, such as a doula or partner, being present during labour provided they are not providing any clinical care during the three stages of labour, except in an emergency when an individual may support the woman until such time as a registered medical practitioner or midwife takes over her care.

The WA national law provides for a national scheme that became operational in October 2010 in accordance with the COAG Health Council intergovernmental agreement signed in 2008 by health ministers from the states and territories and the commonwealth. The original WA national law was referred to the Standing Committee on Uniform Legislation and Statutes Review in 2010 for consideration and report.

Pursuant to standing order 126(1), the minister's office has received advice that this amendment bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government of the state is a party; nor does this bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth. Rather, it amends an existing scheme. It is therefore considered that this amendment bill does not need to be referred to the uniform legislation committee. However, the Joint Standing Committee on Delegated Legislation will be forwarded a copy of the national regulations to consider.

I commend the bill to the house and I table the explanatory memorandum.

[See paper 468.]

Debate adjourned, pursuant to standing orders.

Point of Order

Hon NICK GOIRAN: Noting the time, Madam President, I ask if you could provide a ruling tomorrow on whether the Health Practitioner Regulation National Law (WA) Amendment Bill 2017, which has just been received into the Council is a uniform legislation bill. In particular, I draw to your attention a couple of things I have noted from the explanatory memorandum that has just been tabled by the parliamentary secretary, including that the bill includes reforms to the WA national law. The explanatory memorandum states that it will create a “national regulation of paramedics, including the establishment of a Paramedicine Board of Australia”. Obviously, I have not had the opportunity to consider this bill in detail because it has just arrived in the house. Off the cuff, it seems that it will create new uniform laws for paramedics under a new scheme that does not exist. However that was done, it was obviously done by some kind of bilateral or multilateral intergovernmental agreement. Therefore, this seeks to give effect to the regulation of paramedics, which I understand has not been the case previously.

Additionally, I draw to your attention, Madam President, that the explanatory memorandum states also that this bill will enable “the COAG Health Council to make changes to the structure of National Boards by regulation ...” That immediately strikes me as something that might be a matter of parliamentary sovereignty and I would have thought that would especially be of interest to the Standing Committee on Uniform Legislation and Statutes Review. I will leave it at that, Madam President. If you can provide a ruling tomorrow, that would be useful.

The PRESIDENT: Thank you. I will take that on notice and provide a ruling tomorrow.

House adjourned at 7.00 pm
