

HEALTH SERVICES AMENDMENT BILL 2019

Introduction and First Reading

Bill introduced, on motion by **Mr R.H. Cook (Minister for Health)**, and read a first time.

Explanatory memorandum presented by the minister.

Second Reading

MR R.H. COOK (Kwinana — Minister for Health) [12.16 pm]: I move —

That the bill be now read a second time.

The bill before us today is to amend and improve the effectiveness of the Health Services Act 2016. The act is a relatively new piece of legislation that was designed to create a contemporary and decentralised governance model for the Western Australian health system. The act did this by clarifying the roles and responsibilities at each level of the WA health system. Under the act, the Minister for Health is responsible for establishing statutory entities, referred to as “health service providers”. In establishing the health service providers, the minister is responsible for determining their governance arrangements and the areas where they will provide health services. The health service providers are responsible for governing their health service areas, with oversight from both the minister and chief executive officer of the Department of Health. Importantly, the department chief executive officer is the system manager with responsibility for leading and setting the strategic direction for the WA health system and holding health service providers accountable for the delivery of health services in accordance with their service agreements.

The act has been successful in establishing the new governance model, which has led to greater levels of accountability and performance at each level of the WA health system. However, some operational and legal issues have been encountered since its commencement on 1 July 2016. This bill will address those issues by overcoming administrative burdens created by the act; improving the effectiveness of certain functions and powers of the health service providers, the department’s chief executive officer and the minister; rectifying drafting errors; and clarifying ambiguous sections of the act. The bill will make amendments to a broad range of matters affecting the WA health system, including matters relating to employment, powers of inquiry, information use and disclosure, service agreements, notices of financial difficulty and the delegation of powers under the act. Some of the key amendments that the bill will make are as follows. The bill will establish a new framework for the delivery of capital works and maintenance works. The new framework will clarify the roles and responsibilities for the delivery of capital works at each level of the system and provide for greater flexibility in the delivery of the works. It is intended that the department chief executive officer will continue to be responsible for high-risk projects—for instance, hospital commissioning and large infrastructure projects—and the health service providers will be responsible and accountable for the delivery of lower value projects through their service agreements with the department chief executive officer.

The bill will amend part 6 of the act to establish a new, more comprehensive and effective scheme for the recovery of fees and charges from patients who receive treatment for compensable injuries. The new scheme will allow health service providers to recover charges for the cost of health services from patients when the patient has received treatment at a public hospital as a public patient but has either not disclosed that they have received compensation or receives their compensation after the treatment has been provided. It will also allow for more effective recovery of treatment costs from insurers and other compensation payers, and will give greater certainty to compensable patients regarding the fees that will be charged for health services they receive.

The bill will rectify the WA health system’s complex land management and ownership issues. The act’s transitional provisions were designed to transfer land and property held by or under the care, control and management of the old hospital boards to the health ministerial body. At the time of the act’s commencement, it was understood that all freehold property and crown reserves used by the WA health system were held in the name of the old hospital boards. However, it was subsequently determined that a significant number of properties were actually held in the name of the Minister for Health or the Minister for Public Health in various other capacities. As a result, the transitional provisions were not effective in transferring those properties to the health ministerial body. The bill will rectify this administrative oversight by allowing the minister to make orders for the transition of all freehold property and crown reserves used for the purpose of providing health care to either the health ministerial body or to a health service provider. The issues with the act’s transitional provisions also affected other assets, rights and liabilities of the WA health system and resulted in uncertainty regarding the validity of acts or omissions undertaken by the various health entities in respect of these interests. These acts or omissions were undertaken in good faith but are potentially invalid because they were not performed by the correct interest holder. The bill will validate these acts or omissions, which will protect the interests of third parties who may have relied upon these decisions in their dealings with the WA health system.

The bill will also validate the Health Services (Health Service Provider Land) Order 2016 and all acts carried out over this land pursuant to part 16 of the act and the Health Services (Conduct and Traffic) Regulations 2016. This validation will put beyond doubt the validity of the order. The bill will amend the act to clarify who is the employing authority for employees of health service providers. The amendments will confirm that the employing authority for all employees, other than the chief executive officer, is the board in relation to board-governed health service providers and the chief executive for chief executive-governed health service providers. The department chief executive officer remains the employing authority for the chief executives of each health service provider. The amendments ensure that the act is consistent with the Public Sector Management Act 1994, which the act is intended to mirror, but adapted to the context of the WA health system.

The bill will amend the act to allow health service providers to more effectively provide services to and receive services from one another and to enter into contracts and act as agents on behalf of one another. It is expected that health service providers will use these new powers to negotiate and manage whole-of-health contracts to the benefit of all health service providers and share resources with one another. This will allow the WA health system to achieve economies of scale and reduce duplication, and more effectively utilise its resources.

The bill will strengthen the duties of board members under the act by clearly setting out board members' duties in respect of management of conflicts of interest, and fiduciary duties to their health service provider and to the state more broadly. Failure to comply with the duties of a board member under the Health Services Act, or any of the duties of a board member under the Statutory Corporations (Liability of Directors) Act 1996 of WA, or the general law, will constitute misconduct and may result in the board member being removed from their statutory office by the minister. These new provisions will foster greater levels of integrity and accountability in the WA health system.

In conclusion, this bill builds upon the improvements to the WA health system made by the Health Services Act 2016 by refining the act's effectiveness and strengthening the operations of the WA health system. I commend the bill to the house.

Debate adjourned, on motion by **Mrs A.K. Hayden**.