Agreement in Principle

Ms CARMEL TEBBUTT (Marrickville—Deputy Premier, and Minister for Health) [11.42 a.m.]: I move:

That this bill be now agreed to in principle.

I am pleased to introduce the Health Practitioner Regulation Bill 2009. The bill provides for the implementation in New South Wales of the Health Practitioner Regulation National Law. The national law sets out the regulatory framework for the new National Registration and Accreditation Scheme for Health Professionals. It implements the agreement signed in 2008 by the Council of Australian Governments to establish the National Registration Scheme by 1 July 2010. As such the national law represents a significant development in the Australian healthcare system and the regulatory framework that has contributed to the very high standard of health professional education and professionalism enjoyed in Australia.

The national law provides for the registration at a national level of 10 health professions: chiropractic, dentistry—including dental hygienists, dental therapists and dental prosthetists—medicine, nursing and midwifery, optometry, osteopathy, pharmacy, physiotherapy, podiatry and psychology. Four further professions will be added to the national scheme in July 2012: Aboriginal and Torres Straight Islander health practice, Chinese medicine, medical radiation practice and occupational therapy. The national law has been developed by a team of officials over the past 18 months. During the development of the legislation there has been an extensive consultation process involving a series of national and State forums that provided for engagement with health professionals, professional associations, regulatory bodies and the public.

Over the course of the consultation process over 550 formal submissions were received with the ideas raised in those submissions providing a number of valuable and practical improvements to the legislation and the scheme as a whole. Under the national law registered health practitioners will pay a single registration fee that will entitle them to work across the entire country without being required to meet additional criteria or pay additional fees. The national law will ensure that nationally uniform processes and criteria exist for registering practitioners and accrediting educational programs. The establishment of these uniform processes and standards will mean that uniformly high standards will be applied nationwide and that the public can have increased confidence that all registered health practitioners meet appropriately high standards.

The national law provides also for the mandatory reporting of practitioners who are placing the public at risk of harm due to the manner in which they practise their profession, including practising while intoxicated or affected by drugs; practising in a manner that represents a substantial departure from accepted professional practice; or engaging in sexual misconduct in the course of practice. Many of the essential public protection features of the national law already exist in New South Wales law in substantially the same fashion as they appear in the national law. These features include mandatory reporting, which applies to medical practitioners in New South Wales; mandatory professional indemnity insurance, which applies to all professions in New South Wales other than nursing and midwifery; and the requirement for all registrants to lodge an annual return that provides information relevant to ongoing registration to the registration authorities.

Members will be aware that all national systems are, necessarily, the result of negotiation and compromise to reach outcomes acceptable to all jurisdictions. The national law to be adopted by this bill is no different, and practitioners and regulators in New South Wales will find some differences in how registration, accreditation and other processes will be managed under the national scheme. The processes for approving standards for the accreditation of education courses have been contentious. During the consultation process on the national law professional groups identified concerns that the original Council of Australian Government's agreement gave the ministerial council final power of approval over the standards that will be used to accredit courses. Under clause 11 (4) of the national law the council now will have power to intervene only where there is a concern that the standards will have a substantive and negative impact on the recruitment or supply of health practitioners.

The council will be required also to give consideration to the potential impact of the council's direction on the quality and safety of health care. While I recognise that some professional groups may take the view that there should be even further restrictions on the ministerial council, the Government considers this is a sensible and appropriate solution to ensure a cooperative approach on these issues. As I have indicated already, there are some areas where, through negotiation and discussion, compromises are necessary to reach agreement on a national system. However, equally there are areas where compromise is not possible; where the protection of the public is the paramount consideration. For this reason this Government has argued consistently that there can be no compromise in ensuring the maintenance of a strong, accountable and transparent disciplinary and complaints system in New South Wales.

Members will be aware that the healthcare complaints system in New South Wales is unique in Australia. It divides the complaints and disciplinary roles between the health professional boards and the independent Health Care Complaints Commission. This structure evolved over many years, starting in response to the Chelmsford

Hospital scandals in the 1980s through to the establishment of Australia's first fully independent healthcare complaints investigator in 1993. The changes made to the New South Wales system over the last 20 years have focused consistently on enhancing the public accountability of health service providers and improving the capacity of the complaints system to protect the public.

As members may be aware, the national law's complaints model adopts processes similar to those that currently apply in most other States and Territories. It is markedly different from the current New South Wales model as it relies primarily on the health professional boards to undertake disciplinary functions and does not provide for an independent investigator and prosecutor, such as the Health Care Complaints Commission. This Government remains committed to the Health Care Complaints Commission as an integral element in complaints management in New South Wales. For this reason I am pleased to advise the House that the Government has brokered an agreement with the other States and Territories that will enable New South Wales to maintain its current healthcare complaints system and retain the New South Wales Health Care Complaints Commission.

New South Wales will now participate in national registration as a co-regulatory jurisdiction. As a result, the bill I bring before the House specifically provides that New South Wales will not adopt the national law complaints model, which is set out in divisions 3 to 12 of part 8 of the national law. Under the proposed New South Wales approach the national registration boards will be expressly precluded from dealing with complaints about matters occurring in New South Wales and those matters must be referred to the New South Wales authorities, including the Health Care Complaints Commission, to be managed.

As New South Wales is not adopting the National Complaints Model, further legislation will be required at a State level to re-establish and consolidate the New South Wales professional regulation system. This legislation, which the Government will introduce before the end of the current session, is being developed in consultation with key New South Wales stakeholders and the regulators, including the Health Care Complaints Commission. The legislation will reflect the Government's commitment to retain the commission as a separate entity and also will extend many recent reforms to the Medical Practice Act to other professional groups.

Stakeholders in New South Wales have uniformly welcomed the commitment of the Government to retain the existing complaints system and recognise the benefits that a robust, independent and transparent system delivers to the public, health practitioners and the health system as a whole. Health Ministers have agreed that the practitioners of other jurisdictions will not be called on to fund the complaints system in New South Wales and that practitioners in New South Wales equally will not be called on to fund the complaints system established under the national law.

The New South Wales Government also is committed to maintaining the substantial New South Wales subsidy to the healthcare complaints system through Government funding of the Health Care Complaints Commission. It is therefore anticipated that in most, if not all, cases registration fees payable for practitioners based in New South Wales will continue to be lower than those of the rest of the nation. As I have indicated already, the Government proposes to bring a separate bill before the Parliament later in this session to implement the New South Wales complaints system and to make any other legislative changes that are required as a consequence of the national system.

I extend the Government's thanks to all of the health practitioners, both in New South Wales and other jurisdictions, who have freely given of their time and expertise to help develop the national registration and accreditation system. I congratulate those who have been appointed to the various national boards. The implementation of the national registration and accreditation scheme represents an exciting development in professional regulation in Australia. I commend the bill to the House.