

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [9.50 p.m.]: on behalf of the Hon. John Hatzistergos: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

I am pleased to bring before the House the Health Services Amendment (Local Health Networks) Bill 2010. This important bill amends the Health Services Act 1997 to allow for the creation of local health networks to deliver public health services in New South Wales.

In April 2010 the New South Wales Government reached a historic agreement with the Commonwealth and seven States and Territories to implement national health reform through the National Health and Hospitals Network Agreement.

These reforms will deliver an extra \$1.2 billion in funding to the NSW health system over four years and are contributing to 488 beds being opened across the State in 2010/11, and represents a better outcome for patients, carers and families.

The NHHN Agreement will result in major funding and structural changes to the NSW health system. Central to these reforms is the creation of local health networks which will be responsible for providing and co-ordinating health care services in their local areas. A key outcome of the NHHN Agreement was improved access to primary care services and the Government will continue to work with the Commonwealth to ensure the new Medicare Locals align as much as possible with Local Health Network boundaries.

This new approach to the delivery of healthcare will result in improved patient centred care, more sustainable funding and better integration with primary care services.

Very importantly, these changes pave the way for increased local decision making and greater clinician engagement.

On 29 September 2010, following an extensive consultation process, including nearly 400 submissions, the New South Wales Government announced eighteen Local Health Networks, comprising:

- Eight geographically based Local Health Networks covering the Sydney metropolitan region,
- Seven geographically based Local Health Networks covering rural and regional areas, and
- Three specialty networks covering Children's Health, Forensic Mental Health and services delivered by St Vincent's Health.

The geographically based local health networks were based on specific criteria which included:

- A population based health needs approach;
- Population growth and change;
- Self-sufficiency;
- "Natural communities" and flow patterns;
- Capacity to maintain clinical service networks; and
- High standards of patient safety and quality of care.

As a result of the feedback received during the consultation process, I plan to issue a set of Ministerial directions for each local health network. Ministerial directions will for example recognise distinct sectors and distinct budgets for Blacktown/Mt Druitt Hospital, Dubbo Base Hospital and the Orana Region and St George/Sutherland Hospitals.

And as part of the reform process, the State Government will be consolidating its relationship with local Government. The State Government will enter into a Statement of Intent with the Local Government and Shires Association to facilitate this process, particularly in relation to rural and regional Local Health Networks. This will lead to formal arrangements between the new Local Health Networks and local Government around important issues such as improvements to health facilities and workforce development.

The Government will also enhance the role of the Clinical Excellence Commission to strengthen interaction with clinicians and in the new, localised health structure, will appoint three Regional Coordinators of Clinical Governance to

report directly to the CEC. This will maintain our high standards of the clinical governance in New South Wales.

I am sure that honourable members will agree with me that our public health system is a dynamic one—continually evolving and changing with population growth and ageing, emerging technologies and new models of care.

The State Government is giving priority to developing cross-border health agreements with the ACT, Victoria, Queensland and South Australia, through discussions with our interstate colleagues. We currently undertake a range of joint planning activities, and will build on this work in the coming months.

It is our intention that this will lead, in the future, to the development of local health networks which cross State borders and reflect the reality of proximity to services and patient flows.

The bill provides for the establishment of the eighteen Local Health Networks and in doing so, will abolish the current eight area health services. It will also enable the establishment of network governed health corporations, to support the Sydney Children's Hospitals Network and the Forensic Network. It also contains provisions to enable, affiliated health organizations to be treated as networks under the NHHN Agreement.

This is the first step of an important and historic reform. It provides a comprehensive legislative basis for establishing and supporting the new local health networks, their Governing Councils and chief executives.

The new local health networks are a key component of the NHHN Agreement and NSW is leading the way on their implementation. Establishment of local health network boundaries, appointment of the Chairs and members of Governing Councils and chief executives means NSW will continue to do so.

Turning to the specific provisions of the bill:

Items [1] to [3] of the bill propose amendments to the objects of the Act to reflect these changes to the structure of the New South Wales public health system.

Like the current area health services, local health networks will provide services on a geographic basis. The new local health networks will, also, under section 17 of the Health Services Act be established as statutory corporations that do not represent the Crown in right of New South Wales, and which are separate legal entities from the Department of Health.

The NHHN Agreement contains a number of important requirements relating to the governance of local health networks, and the bill proposes amendments to the Act to reflect these requirements.

The bill will amend section 26 of the Act to establish Local Health Network Governing Councils, in the place of the current area health advisory councils.

Section 26 (1) of the Health Services Act already provides for the Minister to appoint the members of the Council. This is in line with clause A 11 of the NHHN Agreement, and will be retained.

The new sections 26 (2) and (3) set out the skills and expertise that will be required of members of governing councils in a way that is consistent with the requirements of the NHHN Agreement. This will ensure that governing councils will comprise members with an appropriate mix of skills and expertise to oversee and provide guidance to large and complex organizations. To this end, the bill requires that governing councils include members with expertise and experience in such matters as:

- health management, business management and financial management,
- the provision of clinical and other health services,
- knowledge and understanding of the community served by the network, and
- other backgrounds, skills, expertise, knowledge or experience appropriate for the network.

It is also important to ensure that health professionals working in our local hospitals and health services are recognised. The Government has issued a state wide expression of interest for membership of the governing councils—and local doctors, nurses and allied health professionals are encouraged to apply. In addition, the Minister for Health has requested the Department of Health to consult with key professional groups including the NSW AMA, ASMOF, the NSW Nurses Association and Health Services Union to develop provisions for the Local Health Network model by-laws to establish formal and clear pathways for local nurses, doctors and allied health professionals to be put forward for the consideration of the Minister for appointment.

To further ensure clinician engagement and community involvement, Hospital Clinical Councils and Local Health Advisory Councils will continue to play important roles in the new structure.

A new clause 26 (3A) provides that a Local Health Network governing council will also be required to have at least one member who has expertise, knowledge or experience in relation to Aboriginal health, in keeping with the current Advisory Council provisions.

The amendments to section 26 also provide that membership of each Governing Council will be limited to a minimum of six members and a maximum of thirteen.

A rigorous and transparent process is being undertaken to appoint Chairs of Governing Councils. The Government has made clear that its supports local clinicians being appointed to governing councils and expressions of interest are being sought from suitably qualified persons.

Some of the most important amendments in the bill are designed to establish governance relationships between the State, the Chief Executive and the Governing Council, which reflect the framework of the NHHN Agreement.

The Agreement provides for the governing council and the chief executive to be jointly responsible for the key obligations of the local health networks in relation to local service delivery, financial accountability, performance and patient outcomes. These key obligations are already embedded in the Act in Section 10. These functions will be retained, and the new networks will be accountable for undertaking these responsibilities for their communities

The bill addresses the governance issues in a number of ways.

First, the current powers in section 25 of the Act have been revised. Currently section 25 (b) provides that the Chief Executive is, in the exercise of his or her functions, subject to the control and direction of the Director general of the NSW Department of Health. This provision will be removed. Instead, the chief executive will, in the exercise of his or her functions, be accountable to the governing council: the terms of this change reflecting the wording of clause A11 of the NHHN Agreement.

Second, a new section 28 has been added setting out in clear terms the functions of governing councils. These functions have been developed having regard to the functions of the local health networks and to ensure complementarity of the roles of the Governing Council and the Chief Executive in fulfilling their joint responsibilities.

To this end, the functions of governing councils will include:

- ensuring effective clinical and corporate governance frameworks are established to support the maintenance and improvement of standards of patient care and services by the network and to approve those frameworks,
- approving systems to support the efficient and economic operation of the network, to ensure that the network manages its budget performance to meet performance targets and that resources are applied equitably to meet the needs of the community served by the network,
- ensuring strategic plans to guide the delivery of services are developed for the local health network and to approve those plans,
- providing strategic oversight of and monitoring the network's financial and operational performance,

This will ensure the Council maintains proper strategic oversight and monitoring role in relation to the network's activities.

The Chief Executive will, under the terms of section 24 continue to be responsible for the day to day management of the affairs of the Local Health Network.

The Governing Council will confer with the chief executive in connection with the operational performance targets and performance measures to be negotiated in the service agreement for the network under the NHHN Agreement and approve the service agreement for the network under the NHHN Agreement.

The Governing Council will also have specific obligations in respect of the Chief Executive of the Local Health Network. While the Chief Executive will, consistent with NSW public sector employment arrangements be an employee of the State Crown through the Director General of the Department of Health, the Council will have the role of making recommendations for the appointment of the chief executive of the network and, where it considers it appropriate to do so, make recommendations for the removal of the chief executive. This ensures that the Council will have a key role in appointment decisions, consistent with the NHHN Agreement.

The Council will also continue to undertake some of the functions of the Area Health Advisory Councils, particularly, and most importantly, in ensuring that the views of providers and consumers of health services, and of other members of the community served by the network are sought in relation to the network's policies and plans for the provision of health services. The Council will also confer with the chief executive on how to support, encourage and facilitate community and clinician involvement in the planning of network services and keep the community informed about local policies, plans and initiatives.

The bill also includes a power to add additional governing council functions by way of regulation. Given the different role and functions of governing councils compared with area health advisory councils, the bill also proposes deleting a number of current provisions relating to area health advisory councils that are unnecessary or inapplicable to governing councils. These provisions include section 27 which sets out the role of area health advisory councils, section 29 which allows the Minister to establish a charter for area health advisory councils, and section 29A which requires area health advisory councils to furnish an annual report relating to the council's performance. Instead, the Council will have the function of endorsing the Local Health Network's annual report.

As with members of area health advisory councils presently, under section 26(4) of the Act governing council members shall be appointed for a period of no more than 4 years, such period to be specified in the instrument of appointment.

A new section 29 will be introduced to provide for the Minister to remove governing council members, and, where appropriate, replace them with an Administrator. Similar provisions to this proposed section are already in place in respect of board governed statutory health corporations.

This is an important provision. The Council and Chief Executive will have substantial obligations in relation to the effective and efficient operation of the local health network, and for ensuring appropriate standards of care for their patients. It is critical that where there are failings, Government can intervene, and in the most serious cases, intervene urgently. A power to remove, urgently and without reason is currently available in respect of chief executives in the case of area health services and chief executive governed statutory health corporations, and boards in the case of board governed statutory health corporations.

Historically such action has only been taken rarely and in the most extreme cases. It is anticipated this will continue to be the case. Clearly however there needs to be transparency in the event of such a decision. In recognition of this, section 29 will also provide that where the Minister for Health exercises the power to remove a council and appoint an administrator, the Minister must make a Statement to Parliament that sets out the basis for making the decision to appoint an administrator.

The responsibilities of the State under the NHHN Agreement recognise that the State has the overall responsibility for managing the general public health system. The NHHN Agreement therefore provides the State has responsibility for:

- being the Statewide system manager,
- system wide service planning and policy, and
- managing network performance.

Section 122 of the Act already recognises some of the broad systemic oversight roles for the Director General of the Department of Health. To ensure that the State can effectively undertake these functions the bill amends section 122 of the Act to provide the Director general with additional the functions of:

- providing governance, oversight and control of the public health system and the statutory health organisations within it, and
- issuing lawful directions to statutory health organisations.

The NHHN Agreement not only focused on the State as the overall manager of the public health system, but also recognised the more general financial and other accountabilities of public bodies under State law.

It is therefore important that the State, through the Director general, has the capacity to give directions to Local Health Networks, both to ensure they fulfil their statutory and financial obligations and to assist the State meet its own obligations as system manager.

The Local Health Network structure announced by the Government in September this year included two specialty networks of clinical services—The Sydney Children's Hospitals Network (Randwick and Westmead) and the proposed Forensic Mental Health Network.

Given that these services will be provided across local network boundaries, it is considered most appropriate under the framework of the Act for these services to continue to be constituted as statutory health corporations.

Currently Chapter 4 of the Act permits either board or chief executive governed health corporations. The Sydney Children's Hospitals Network, for example, is currently a chief executive governed health corporation.

In order to provide for health corporations that comply with the requirements of the NHHN Agreement, a new Division will be created in Chapter 4 of the Act allowing the establishment of network governed health corporations. The provisions relating to the governance arrangements of network governed health corporations, including appointment and functions of the governing council and chief executive, are to be broadly the same as those for local health networks.

These proposed amendments create a statutory framework to enable Sydney Children's Hospitals Network and the proposed new Forensic Mental Health Network to be established as network governed health corporations, and to be recognised and funded under the NHHN Agreement.

The Government has also announced the recognition of a new St Vincent's Network, comprising include St Vincent's Hospital and the Sacred Heart Hospice in Darlinghurst, and St Joseph's Hospital at Auburn. This approach accords with the NHHN Agreement, which recognises the vital role played by non-government providers of public health and hospital services such as St Vincent's.

Non-government sector providers of public health services are dealt with under Chapter 5 of the Act. This Chapter enables private benevolent bodies to be recognized as affiliated health organisations to be recognised in respect of certain of their establishments or services where public health or hospital services are provided.

It is not proposed to make any structural changes to these arrangements in order to allow St Vincent's to be recognised and funded under the NHHN Agreement.

Given the necessity for St Vincent's to retain its independent board, it is not possible to establish the proposed network as a local health network or a network statutory health corporation under the Act.

Instead, a new section 628 will be inserted into the Act to enable the Minister to make an order declaring that one or

more affiliated health organisations are to be, in respect of some or all of their recognised establishments or recognised services, to be treated as a network the purposes of the NHHN Agreement. Such an order can only be made with the concurrence of the affected affiliated health organisation.

Amendments to insert a new section 1338 into the Act will provide protection for members of the governing councils of both Local Health Networks and network governed health corporations against personal liability for anything done in good faith for the purpose of carrying out their statutory functions. This provision reflects, and updates, the current protections provided to board members of board governed statutory health corporations.

The Government will be introducing separate legislation to establish a National Health and Hospitals Network Funding Authority in New South Wales as required by the NHHN Agreement. Under the Agreement all activity based funding from both Commonwealth and State Governments is to be paid to the proposed new Funding Authority, which will in turn make payments to local health networks in accordance with agreed local health network Service Agreements.

The New South Wales Health consultation process in relation to proposed Local Health Network boundaries confirmed strong support for the ongoing provision of clinical networks and other services that are currently provided across area health service boundaries. Under section 1268, the Director General already has functions to provide support services to public health organizations. In order to facilitate the ongoing provision of such services, the Bill proposes to amend s 1268 of the Act to allow the Director general to provide services, not only in support of public health organisations and the public hospitals they control, but also to enable the co-ordinated provision of health services involving more than one public health organisation on a statewide basis.

This amendment will facilitate the ongoing provision by the Director general of health support, clinical service networks and, clinical support clusters that will provide expertise and support in vital areas such as mental health/drug and alcohol, cancer services, renal services, oral health, imaging and pathology hubs in order to ensure equity of patient access to the appropriate range of services, whilst allowing Local Health Networks to focus on local planning, decision making and implementation.

This amendment is also supported by a proposed addition to the functions of local health networks in section 10 of the Act to recognise networks' role in co-operating with other networks and the Director general in relation to the provision of health services involving more than one public health organisation or on a state wide basis.

Section 126, which sets out the performance agreement provisions will also be amended and augmented, to confirm that a performance agreement may include the provisions of a service agreement within the meaning of the NHHN Agreement.

The changes will also extend the provisions relating to the reporting obligations to ensure they will cover the range of data and information necessary for NSW to comply with its reporting requirements to the Commonwealth under the NHHN Agreement.

Finally, the bill contains a number of transitional and machinery provisions to facilitate the transfer of assets, rights and liabilities of area health services upon their dissolution.

Given the reforms involve the disaggregation of area health services into Local Health Networks, amendments are proposed to enable this to occur smoothly and without risk of disruption to service provision.

The Government thanks the many clinicians, community members, health managers and stakeholder organisations that have been part of the consultation process which has assisted in the development of the bill.

The Government also thanks the NSW Area Health Advisory Council which under the guidance of the Right Hon Ian Sinclair and Professor Judith Whitworth, played a critical role in facilitating feedback.

And the Government acknowledges and thanks the AMA, ASMOF and the Nurses' Association whose advocacy has assisted greatly in developing the governance arrangements.

Madam President, the reforms proposed by this bill enable the creation of local health networks in New South Wales and strengthen local decision-making and community involvement in health service delivery.

It continues the State Government's positive agenda for health in NSW and our ongoing commitment to deliver the right care in the right place and at the right time for all NSW residents.

I commend the bill.