

Agreement in Principle

Mrs JILLIAN SKINNER (North Shore—Deputy Leader of the Opposition) [10.02 a.m.]: I move:

That this bill be now agreed to in principle.

In 2002 Dr Graeme Reeves was employed by the Greater Southern Area Health Service as a visiting medical officer [VMO] in gynaecology and obstetrics despite the fact that the New South Wales Medical Board had placed an order against him practising as an obstetrician in 1997. Members of the House are very familiar with this case, as are the general public as a result of the considerable media attention that has been given to this matter. Dr Reeves is alleged to have mutilated and sexually assaulted a number of patients during his employment with the Greater Southern Area Health Service. He was deregistered in 2004 after a string of incidents.

On 7 May 2008, the Minister for Health introduced legislation into this Parliament that strengthened the role of the New South Wales Medical Board in dealing with complaints about medical practitioners. In her opening statement, the Minister stressed that the changes would improve "transparency and accountability by introducing mandatory reporting requirements on the medical profession itself to report medical practitioners whose conduct may be harming or abusing patients." The Coalition had been calling for the legislation, and fully supported it. But despite amending legislation to make it more likely that malpractising doctors would be dealt with and deregistered, the Minister for Health failed to amend legislation to make it mandatory for employers to check with the New South Wales Medical Board before employing any doctor.

The Minister has addressed only half the problem. Her move was to amend the legislation dealing with the practice of medicine, particularly the review, disciplining, and registration of doctors, but she did not amend the legislation dealing with the employment of doctors. She amended the Medical Practice Act and Health Care Complaints Commission Act. Changes introduced by the Minister mean that the New South Wales Medical Board has the power to require any person to provide it with information, documents or evidence to that effect. This may apply to hospitals, area health services or other health service providers, and failure to comply carries a maximum penalty of 20 penalty units. But why did the Minister not go the extra step and amend the Health Services Act, which deals with the employment of those practising medicine? Her legislative amendments followed a review by respected retired Federal Court judge Deirdre O'Connor, who inquired into the issues relating to the appointment of Dr Graeme Reeves who, as I have said, allegedly has harmed many of his patients. That is where the problem started. The terms of reference that the Minister provided to Justice O'Connor asked her whether "there are any areas where the provisions of the Medical Practice Act 1992 and the Health Care Complaints Act 1993 (the Acts) could be improved."

There was no mention in the terms of reference of the need to review how Dr Reeves came to be employed and whether the legislation covering doctors' employment, the Health Services Act 1997, could be improved to prevent this sort of thing happening again. This has been the main concern of the Bega and Pambula patients mistreated by Reeves. This is the question that they have repeatedly asked. This is the question that I, the member for Bega, the Leader of the Opposition and other Coalition members of Parliament have repeatedly asked. This is the question that the media have asked. This is the question that the Minister for Health said she could not answer in February when she said she was "at a loss" when asked to explain how Dr Reeves was able to continue to practice as an obstetrician and gynaecologist.

Despite having an order made against Dr Reeves by the Medical Board in 1997, he was employed to practice at Bega and Pambula by the Greater Southern Area Health Service. He was employed despite the deputy director of medical services, Dr Jon Mortimer, making a file note of a reference check that he was "not meant to do obstetrics". Contrary to assertions made by the Minister for Health in this Parliament, that note was made two days before Dr Reeves' contract of employment was signed. While the Opposition supported the Government's introduction of mandatory reporting requirements for doctors concerned about the practises of peers, that by itself will not prevent employment of another impaired doctor in the future.

The issue is about what the Department of Health does when it gets an adverse background check. The Minister said there is government policy requiring hospitals to check with the Medical Board before employing doctors. The Coalition joins women who have been injured by Dr Reeves in saying that is not good enough. If the requirement for doctors to report impaired peers needed legislation, surely the requirement for employers to check doctors' credentials should also be the subject of legislation. The victims of Graeme Reeves are on the record as saying that they do not believe that anything the Minister has done will prevent other patients from suffering the same fate as them. Even after the Greater Southern Area Health Service knew that Dr Reeves was not supposed to be practising obstetrics, he continued to practice. On 15 May the *Sydney Morning Herald* interviewed women who had been mistreated by Dr Reeves. The article states:

Trisha Andrew, 33, said she was left "black and blue", in agony and bedridden for weeks after Reeves performed keyhole surgery to remove ovarian cysts at Pambula Hospital in May 2003.

The New South Wales Medical Board had warned the area health service in November 2002 that Reeves was working illegally, but he continued to practise on the South Coast. Maree Germech alleged he sexually assaulted her in mid 2002 in his Pambula rooms.

Gail Small, 55, alleged he failed to diagnose ovarian cancer in 2003, resulting in her having an emergency hysterectomy at Liverpool Hospital a year later.

The *Sydney Morning Herald* noted in an editorial on 19 May 2008:

The New South Wales Opposition should not despair over the failure of its calls for the resignation of the State's Health Minister, Reba Meagher.

By refusing to own responsibility for the systemic crisis in her portfolio, Ms Meagher is digging her own political grave. Eventually, she will fall into it.

Last week this newspaper revealed that background checks were carried out on the banned obstetrician Graeme Reeves before he was employed by the Greater Southern Area Health Service in 2002. In fact, a referee for his job application told the service that Reeves was "not meant to do obstetrics". Last week Ms Meagher told Parliament otherwise, hence the Opposition's demand for her resignation.

The New South Wales Medical Board had warned the area health service in November 2002 that Reeves was working illegally, but he continued to practise on the South Coast, allegedly sexually assaulting and botching procedures on hundreds of women

The article concluded:

Public confidence in the administration of health in New South Wales has been fatally undermined. By keeping Reba Meagher in her job the premier denies himself and his Government an opportunity to renew it.

The purpose of this short amendment bill is simple: to amend the Health Services Act 1997 to require the chief executive of a public health organisation to carry out a background check on a medical practitioner with the New South Wales Medical Board before the medical practitioner is appointed by the public health organisation. The bill provides that the employer must act on that advice. In the event that an order is made in respect of the medical practitioner that would prevent or restrict him or her from carrying out the medical service concerned, he or she must not be appointed or employed to undertake those duties. This is a simple piece of legislation. A new chapter 10A will be inserted, which is headed "Background checking of medical practitioners before appointment or employment." New chapter 10A sets out the following definitions:

background check means a check for any medical service restriction affecting the carrying out of medical services by the medical practitioner.

employ includes make any recommendation relating to employment.

Medical Board means the New South Wales Medical Board.

medical services restrictions, in relation to a medical practitioner, means any order made in respect of the medical practitioner, or any condition placed on the registration of the medical practitioner, under the Medical Practice Act 1992 as a result of a misconduct finding.

misconduct finding includes a finding of professional misconduct or unsatisfactory professional conduct.

New section 132B covers background checking that is mandatory before appointment or employment and introduces the following requirements:

(1) The chief executive of a public health organisation must carry out a background check of a medical practitioner with the Medical Board before the medical practitioner is:

(a) appointed by the public health organisation as a visiting practitioner under chapter 8, or

(b) employed under Chapter 9 to enable the public health organisation to exercise its functions.

(2) The Medical Board is required to give to the chief executive any information concerning any medical services restriction affecting the carrying out of medical services by the medical practitioner of which it has knowledge.

(3) The medical practitioner must not be appointed or employed to carry out any medical service for or on behalf of the public health organisation if the background check shows that any medical service restriction would prevent or restrict the medical practitioner from carrying out the medical service concerned.

(4) A chief executive of a public health organisation must not, without reasonable excuse, fail to comply with the requirements of subsections (1) and (3).

Noncompliance with those requirements carries a maximum penalty of 20 penalty units, just as the requirement for doctors and others to report impaired doctors carries a maximum penalty of 20 penalty units in the legislation previously introduced by the Minister. This means that we now have two pieces of legislation that apply the same sets of rules to doctors and others as apply to public health service employees. Despite it being a very simple and short piece of legislation, I believe it is important. It is essential if we are to ensure that patients in this State are not confronted with a situation similar to the one that resulted in patients being severely harmed after being treated by a doctor who had been ordered not to practise obstetrics by the New South Wales Medical Board. I appeal to members on both sides of the House to support this legislation. If it is not passed and if another doctor is employed without undergoing a background check by the New South Wales Medical Board to reveal whether he or she should not be practising and that doctor goes on to harm a patient, I would not want to be the member who said no to this legislation