



Nurses Amendment Bill.

Second Reading

Miss BURTON (Kogarah—Parliamentary Secretary), on behalf of Mr Lemma [11.23 a.m.]: I move:

That this bill be now read a second time.

I have pleasure in introducing the Nurses Amendment Bill for the Parliament's consideration. The purpose of the bill is to update the regulatory system pertaining to nurses and midwives in New South Wales in accordance with the recommendations of the recent review of the Nurses Act 1991. The review of the Nurses Act, from which this bill emanates, was conducted by the Department of Health under the auspices of the competition principles agreement. That review has provided an excellent opportunity to review both the objectives that underpin the regulation of nurses and midwives and the mechanisms that are used to implement that regulation. The review concluded that the public interest is served by the regulation of nurses and midwives, and that the regulatory system established by the Nurses Act 1991 is largely effective in ensuring that nurses and midwives are fit to practise and provide top-quality health care services to the people of New South Wales.

However, the review also identified a number of areas in which the regulatory system can be updated and improved. Areas in which improvement is warranted include improving the powers of the board to register or enrol a person subject to conditions—increased flexibility in this area will allow the board to be far more proactive in protecting the public in comparison to current arrangements that largely limit the board to a reactive role—amendments to allow the board to appoint inspectors, amendments to the mechanisms for the enrolment of nurses to afford applicants the same natural justice considerations as apply to applicants for registration, and updating the board's powers with respect to the emergency suspension of a practitioner when such action is necessary to protect the health or safety of a person, and with respect to impaired practitioners in the same manner as amendments to the Medical Practice Act.

Under the current Act, recognition of competence to practise midwifery is by way of an additional authority granted to a registered nurse. Therefore, all midwives must be registered nurses and are correctly known as registered nurses authorised to practise midwifery, rather than registered midwives. During the course of the review strong representations were received for greater recognition of the professional status of midwifery within the Act. Whilst a wide range of views have been expressed about the form such recognition should take, the majority of practitioners, at the very least, see nursing and midwifery as linked by common education, philosophies and history. The outcome of the review acknowledged the benefits of nursing and midwifery being professionally linked in this way whilst recommending that midwifery be accorded a distinct status within the legislation.

Given this, and taking account of the increasing numbers of midwives from overseas who have training in midwifery alone without an underlying comprehensive nursing education—in other words, direct entry midwives—the bill establishes two separate registers, one for nurses and one for midwives. A person who is qualified as both a nurse and a midwife will, as a condition of registration as a midwife, also hold registration as a nurse. This will ensure that there is no reduction in the flexibility within the workplace which dual qualifications in nursing and midwifery affords, particularly in rural and regional New South Wales. It is also important that I place on the record the fact that all practitioners will continue to pay the same annual registration fee, irrespective of whether they are registered as a nurse or as a midwife, or both.

In keeping with this development, midwives who have demonstrated appropriate advanced practice to become eligible to be authorised nurse practitioners will now be able to apply to be authorised midwife practitioners. The same criteria will apply to the approval by the board of people to practise as nurse practitioners and midwife practitioners, and all such practice will continue to be under guidelines approved by the Director-General of Health. These developments have the support of the New South Wales Nurses Association and the New South Wales Midwives Association.

The majority of the amendments contained in the bill are designed to implement this development.

Other significant changes in the bill include proposed section 2A, which sets out the objectives of the legislation as being, first, to protect the health and safety of the public by providing mechanisms to ensure that nurses and midwives are fit to practice, and, second, to provide mechanisms to enable the public and employers to readily identify nurses and midwives who are fit to practice. Proposed section 4B provides a definition of competence to practice nursing or midwifery that includes adequate physical capacity, mental capacity, knowledge and skill to

practice and an adequate command of the English language. This definition is important as it is linked to proposed section 29A, which will allow the board to refuse to register or enrol a person, or register or enrol a person subject to conditions following an inquiry into his or her competence. The procedure for such an inquiry is detailed in proposed schedule 1B. These provisions are in similar terms in all other recent health professional registration Acts and provide a valuable mechanism to help ensure that registered health professionals are competent to practice to the high standards that the community expects of them.

The proposed increase by three in the size of the Nurses and Midwives Registration Board will provide a better balance and mix of skills. The additional positions are for an additional nursing or midwifery academic—required to ensure that the board has adequate academic experience to manage the large amount of work involved in assessing and recognising tertiary education courses; an additional enrolled nurse to be appointed by the Minister, recognising that there are over 15,000 enrolled nurses in New South Wales, who are important and valued members of the health care team; an additional community representative to bring to a total of three the number of community representatives on the board, recognising that the board regulates the nursing and midwifery professions in the public interest and that consumers have an important contribution to make to that process.

The bill will establish the Nurses Practice Committee and the Midwives Practice Committee as standing committees of the board. These committees are charged with advising the board on educational matters to do with nursing and midwifery respectively and such other matters in the practice of nursing and midwifery as the board may determine. Proposed part 4 of division 7 will require nurses and midwives to provide the board with a range of information when they renew their registration or enrolment each year and when charged with a criminal offence involving sex or violence that is committed in the course of practice or involves children. These provisions, which exist in similar terms in all other recent health professional registration Acts, including the Medical Practice Act 1992, are appropriate within a protective jurisdiction and are designed to ensure that nurses and midwives are held to the same high standards of professional accountability as other registered health professionals. Proposed sections 77A and 77B provide for the board to appoint inspectors to investigate offences under the Act and for the powers of those inspectors.

The current Nurses Act includes a restriction on the practice of midwifery, although midwifery is not defined. This restriction recognises that the management of labour and childbirth is a skill that requires specialist training. Under those provisions only certain registered professionals and bona fide students are entitled to undertake midwifery practice. The Nurses Registration Board has been unsuccessful in enforcing this restriction due to the difficulty of proving to the required standard of proof that a person has practised midwifery when the legislation does not include a definition of midwifery. In response to this obvious problem the review recommended that the restriction on midwifery be replaced with a targeted restriction on those essential practices relating to childbirth that are of particular risk to mothers and babies if undertaken by inadequately qualified people.

The bill therefore proposes to amend the Public Health Act by inserting section 10AE into that Act. Proposed section 10AE will restrict the care and management of a pregnant woman during the three stages of labour to the same categories of health professionals and students as the current midwifery practice restriction, namely: registered midwives; registered medical practitioners, registered nurses and medical students acting under the supervision of a registered medical practitioner or a registered midwife; and midwifery students acting under the supervision of a registered midwife. The proposed amendment addresses the problem of enforceability by providing a readily understood definition of the restricted practice, thus providing an effective mechanism to help ensure that women in labour are cared for by appropriately qualified people. I stress that the existing restriction on the use of the title midwife will be retained and that title will be available only to registered midwives. These changes have been supported by the Medical Services Committee, the New South Wales Nurses Association and the New South Wales Midwives Association.

There are minor amendments to the disciplinary system relating to nurses and midwives. These amendments do not seek to change the structure of the system, which will continue in its present form, but will update its operation in the same way as the disciplinary system under the Medical Practice Act has been updated. The important role played by the Health Care Complaints Commission, which is the independent complaints investigation body, will not be affected by the amendments introduced by the bill. As honourable members are no doubt aware, nurses and midwives are rightly considered to form the backbone of the hospital system. The New South Wales Government has launched a number of initiatives designed to address the shortage of nurses and midwives, including the successful Nurses Re-connect program that allows nurses to be paid while undertaking an individualised and supported re-education program with the support of nurses already in the system. In this way nurses' skills are updated and recharged and there are no course fees because the scheme is fully funded by the Department of Health.

Honourable members will also be aware that last year the Government announced the creation of further nurse practitioner positions in emergency departments, intensive care units and mental health services in Sydney, the Hunter and the Illawarra. The expansion of nurse practitioner positions will further improve the career path open to nurses in New South Wales and provide additional incentive for senior experienced nurses to stay in the profession providing services to the citizens of New South Wales and passing their expertise and experience on

to other nurses and nursing students. The provisions of this bill will help to ensure that the public can continue to have confidence in the professionalism of nurses and midwives and to expect the highest standards of competence and conduct from them. I commend the bill to the House.

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