HEALTH AND DISABILITY SERVICES (COMPLAINTS) AMENDMENT BILL 2021

Second Reading

Resumed from 25 November 2021.

DR K. STRATTON (Nedlands) [10.38 am]: I rise today in support of the Health and Disability Services (Complaints) Amendment Bill 2021. This amendment bill will amend the Health and Disability Services (Complaints) Act in order to implement the national code of conduct for healthcare workers. This code sets minimum standards of practice for healthcare workers who are not registered under the national registration and accreditation scheme. It also covers healthcare workers who provide services that are unrelated to their registration, or who are student or volunteer healthcare workers. It covers some 16 practitioner groups, including my own of social work, as well as counsellors, dietitians, massage therapists and doulas, amongst others.

We have recently seen unregistered health practitioners in other states of Australia publishing material and engaging in false, unsafe and unethical education about COVID-19 vaccines and treatments. We have also seen unregistered health practitioners engage in conversion practices or sexual orientation change efforts, although I note it is not just unregistered health practitioners who attempt this dangerous, unethical and ineffective practice.

Implementing the national code is a state government election commitment, particularly minimising and addressing conversion practices. It is what this amendment will mean for conversion practices that I wish to focus on today. I feel it is important to acknowledge that survivors should be at the forefront of any discussion about conversion practices. I am not a survivor, nor am I a member of the LGBTQIA community. I endeavour always to be a better ally and advocate, and many people whom I love dearly are part of the community. I put those qualifications on my statements regarding conversion practices.

Conversion therapy involves what we could at best describe as pseudoscientific practices with the aim of changing the sexual orientation, gender identity or expression of lesbian, gay, bisexual, trans, queer and gender diverse people. The change aimed for is generally to a heterosexual and cisgender identity, and such practices use a range of psychological, physical or spiritual interventions. There is no reliable, valid or reputable scientific evidence that such practices can alter sexual orientation or gender identity. Instead, psychological research has demonstrated that LGBTQIA change and suppression efforts do not reorient a person's sexuality or gender identity. Rather, we have an increasing body of research that documents the negative impacts that these attempts have on LGBTQIA people's lives. Not only are these practices ineffective, they are harmful and cause deliberate harm. They are also unethical, and various jurisdictions around the world, including other states in Australia, have passed laws against and even banning conversion therapies.

Conversion therapy is damaging to individuals and to the whole LGBTQIA community and, by definition, all of us in the community. Survivors describe the trauma, shame and distress caused by conversion therapy practices. Conversion therapy says that love and acceptance is conditional at the very best, conditional upon people denying who they are or agreeing to change or appear to change. Conversion therapy says that who you are is unwanted, it is undesirable; you are unlovable and unworthy. The 2021 research report from La Trobe University *Healing spiritual harms: Supporting recovery from LGBTQA+ change and suppression practices* was informed by the stories and experiences of 35 survivors of change and suppression practices. The report notes that the majority of practices of conversion therapy occur in religious settings, which are not covered by the national code. This study investigated survivors' experiences of recovery through interviews with them and mental health practitioners. It they found that people who experience change or suppression practices are severely harmed by those attempts, with recovery being a very slow process and requiring long-term professional support. Survivors often experience post-traumatic stress disorder symptoms and barriers in accessing health support, including financial barriers, an understandable heightened mistrust of mental health professionals and deep experiences of shame.

Attempts to change sexuality of gender or gender identity are about conforming to outdated social beliefs or assumptions—for example, that sex and gender are binary and fixed, and that heterosexual relationships are paramount. Conversion therapy does not reflect modern and contemporary views and understandings of gender roles and sexuality. Indeed, it perpetuates these outdated, ill-informed roles and identities, as well as assuming that identifying that being LGBTQIA is an abnormal aspect of human development. Changing views on sexuality and gender identity are reflected in significant legislative and regulatory changes to remove inequities faced by LGBTQIA people, communities and same-sex couples. Conversion therapy denies people their identity and in doing so, denies them equality and equity.

The question is not whether conversion therapy practices are effective; it is whether they have a place in a modern and inclusive society. They certainly violate human rights conventions. People who identify as LGBTQIA are not broken. They do not need to be fixed. They are not sick and they do not need to be cured. Under this amendment, people who experience conversion practices may complain about potential breaches of the national code on the

grounds of efficacy. For example, when a healthcare worker claims that they have the ability to change someone's sexual preference, it is a breach of the code to make claims about the efficacy of treatment or other services if they cannot be substantiated. Clearly, the scientific evidence demonstrates that it is not possible for a healthcare worker, or indeed any other person, to make a claim about their ability to undertake conversion practices or the efficacy of those practices. As well as being able to make a complaint based on efficacy, under this amendment people can lodge a complaint about breaches of the code if they experience harm resulting from their treatment, including conversion practices. A healthcare worker must only provide services or treatments to clients designed to maintain or improve a client's health and wellbeing. As noted above, conversion practices do quite the opposite and have been found and demonstrated in scientific research to create significant and ongoing emotional, mental, physical, social and spiritual harm and trauma to survivors. While the national code cannot be used to enact a blanket ban on conversion therapy, it does provide a mechanism to prevent unregulated healthcare workers engaging in these practices if the conditions of a complaint are met.

The new powers conferred by this amendment will enable the director of Health and Disability Services Complaints Office to investigate complaints, initiate own-motion investigations, issue interim prohibition orders and prohibition orders to stop or place conditions on practices, and then monitor compliance with these orders and take action on any breaches. It will mean effective action can be taken against healthcare workers whose conduct or performance falls well below the standard that is expected and that can place people at risk of serious harm.

Registration of social work is something of an ongoing debate inside my profession, but can I say that as a social worker, anyone claims that name who engaged in conversion therapy would be committing a gross breach of our code of ethics. As social work is a profession based on three core values of social justice, inclusivity and respect for human dignity and worth, a social worker engaging in such practices would not be fit to call themselves a social worker. I welcome, therefore, these additional protections provided to vulnerable people who are engaged in work with unregistered health professionals, and I recommend the bill to the house.

MS L. METTAM (Vasse — Deputy Leader of the Liberal Party) [10.47 am]: I rise to also support the bill and commend the member for Nedlands for her contribution. I thank the minister and her advisers for the support they have provided the opposition in the briefing on this bill, a bill that the opposition supports. This bill seeks to stop unethical and dangerous practices in the provision of health care. As has been pointed out, the purpose of this bill is to implement the national code of conduct for healthcare workers in Western Australia, and it will amend the Health and Disability Services (Complaints) Act 1995. There are quite a few amendments. One relates to complaints. It gives the ability to the Health and Disability Services Complaints Office to deal with complaints and provide powers to undertake an investigation into alleged breaches of the code by unregistered healthcare workers. The bill also states that the director may initiate an investigation if there is reason to believe the particular complaint is unsafe or unethical, which is obviously a very worthy measure.

Importantly, the bill provides for the protection of public health and safety. When a healthcare worker has been found to have breached the code, they may be subject to a prohibition order to prevent them from providing services. This relates to investigations into breaches of the national code, and there is provision in this bill, as well as penalties of up to $30 000 to provide for health services if they are in receipt of a prohibition order—and a right of appeal.

This uniform legislation will bring Western Australia in line with other states. I understand through the briefing process that we have undertaken that it most closely replicates the legislation in Victoria. The New South Wales and South Australian legislation has been in place the longest. As this is uniform legislation, I understand that it will be subject to review by the Uniform Legislation and Statutes Review Committee of the Legislative Council.

The bill does not specify which health jobs are captured by the legislation, which is why the definition of "health services" is particularly important. The opposition was provided with some clarification on one of the questions it raised, but I note that the definition of "health services" as recommended by the former Council of Australian Governments Health Council was not adopted in the amendment of the bill. As I stated, health jobs are not written into this legislation, so the opposition will seek clarification in consideration in detail on how this bill will work in its delivery. Given that the intention of the bill is to stop alleged unethical and dangerous practices and to put in place protections against them, it is obvious that the opposition will support such legislation, subject to clarification on matters through the consideration in detail process and as it proceeds through the Legislative Council.

I again underline my thanks to the Minister for Health for bringing this bill to the house and also, importantly, her office and advisers for assisting the opposition through briefings on this legislation.

MR D.A.E. SCAIFE (Cockburn) [10.52 am]: It is a privilege to rise today to speak on the Health and Disability Services (Complaints) Amendment Bill 2021. This bill will bring Western Australia into the national law on the regulation of unregistered health practitioners and it will see us implement the national code of conduct for unregistered health practitioners. It is an important step forward and has a long history in getting to this place. It arises from a process through the auspices of the Council of Australian Governments, and also from a series of

inquiries, coronial inquests and other investigations that have been conducted by governments and courts over many years that have exposed practices by people in some of these professions that, as the member for Nedlands said, in many cases do not align with the values of the professions they purport to represent, and also simply just do not stand up to community expectations.

Australia has had a national law for registered health practitioners for over 10 years. It was established in about 2010. That scheme comes under the regulatory oversight of the Australian Health Practitioner Regulation Agency, but the remit of that regulation has not been expanded to unregistered healthcare workers. That regime does not extend to counsellors, social workers and naturopaths and the like. For most of my contribution today I want to reflect on the history of these provisions and the need for them because we have seen in the past couple of decades an explosion in alternative health care and medicine in Australia. Many people, probably including some in this chamber, use alternative medicines and alternative therapies. It is an established part of the healthcare landscape. A study titled *Complementary medicine use in the Australian population: Results of a nationally-representative cross-sectional survey*, published in *Scientific Reports* in 2018, found —

> The findings of this study suggest that two out of three Australians use some form of CM.

That is, complementary medicine —

> This figure is consistent with previous studies indicating that high levels of CM use are a firmly entrenched aspect of the healthcare milieu in Australia, with prevalence and utilisation levels that are both significant and consistent.

I am sure that many members in this chamber have seen that rise, either experiencing it personally or have seen constituents increasingly go to therapies such as meditation, or see a naturopath and the like, or a kinesiologist for manipulation. I want to make the point that most people in these industries have the best intentions and do the best job they can in carrying out their practices. However, I certainly urge people to see a registered health practitioner if they are dealing with serious illnesses or conditions. If they are experiencing something that could be cancer, for example, it is important that they see a trained registered medical professional. Unfortunately, during the pandemic we have seen that the growth in this industry has come with a series of claims that, frankly, are just quackery. I am loath to even use the term pseudoscience in relation to what some of these people say because it has the word "science" in it. I am sure my colleagues have all received the bizarre emails that we are all copied into, including members of the Liberal and National Parties. They are delightful emails! I do not respond to those emails, but I will put on the record today that they all go into the junk folder. If any of those people are reading *Hansard*—those people are fond of doing their own research, so they may very well be some of those strange individuals who read *Hansard*—I indicate to them that those emails are junked very quickly. I am not interested in reading their research; I am quite satisfied in letting the people who are experts do the research and interrogating the advice they provide.

I have seen in my electorate of Yangebup over the past year some people engaging in letterbox campaigns. The Labor Party is generally in need of people to do letterboxing, but I am not inviting these people to assist with our letterboxing efforts because the material and what it says about the pandemic is absolutely off the face of this planet. Members should read the comments on the various community Facebook groups to get an idea of just how out of step these people are.

Mr D.T. Punch interjected.

Mr D.A.E. SCAIFE: I do read the comments, Minister for Fisheries. I guess I am that kind of sick and twisted person. I do not engage in the debate about the comments, but I will say that the comments on these topics are quite heartening because people tend to post and say that they have received something in the letterbox and ask whether anyone else has. There tends to then be a series of comments about what those pieces of paper will be used for over the coming days, and none of it is being put to the productive uses I expect the people letterboxing it hoped it would be!

I have a practice with my constituents that anybody who is enrolled to vote in my electorate or who lives in my electorate and contacts my office gets time with me, whether that is a reply to an email or, in most cases, a phone call from me to chat to them about it. That extended to people who held some quite interesting views about COVID-19 over the course of the pandemic. If they were residents of my electorate, and they wanted to speak to me, they got 15 minutes of fame to talk about that. I had one conversation with an individual who described herself as an "applied kinesiologist". We attempted to have what I was hoping would be a sensible conversation, even though I knew from the outset that it was a futile conversation. The conversation eventually devolved into that constituent asking me whether I had children. I do not have children. Despite my grey hairs, I am 33 and my wife is 29.

Mrs L.A. Munday interjected.

Mr D.A.E. SCAIFE: I do not know whether we have plenty of time, member for Dawesville. I used to think we had plenty of time, but it is not feeling like plenty of time anymore. In any event, this is a personal matter and is

something that we hope to do. This constituent thought it was okay to ask me whether I had children. I said no, but I hoped to have children. She asked me whether I was fully vaccinated. I said yes, of course. I pre-empted the next question and said that if I had children, they would be fully vaccinated when they were eligible. She responded by saying, "That's a pity for you because you won't be able to have children, because you're fully vaccinated." I said to this individual that I did not know why she felt the need to go there or to make this personal. I told her that I did not agree with her views, and I did not know why she thought it was acceptable to level that grubby kind of personal attack at someone on an issue. My wife and I do not know whether we can have children, but it has nothing to do with the vaccine. I say to people that even though they have their own personal views, and I may not agree with them, which is fine, they have a responsibility to people in the community, particularly if they are holding themselves out as a healthcare worker and running an educational institute. It is from experiences like that that I am really heartened to see the introduction of this bill. I congratulate the former Minister for Health for introducing it and the current Minister for Health for continuing its carriage through this place, because we have seen an absolute explosion in these sorts of alternative therapies and we have to make sure that those people are held to the highest possible standard and are accountable. It also occurs to me that one of the issues that makes this more important is the growth of not just the industry, but also the fitness and wellness culture on social media. I go to a gym and I know that a lot of people within the fitness community hold good views about staying healthy and active, but there is a little overlap at just about any gym, particularly the one I go to, with people who think that a certificate III in fitness qualifies them to be experts in virology and immunology. One of the many pleasing benefits of the state government's policies around vaccinations is that a few of those individuals are no longer working out with me in classes at the gym. I think that is a very good thing.

I will speak now to some very serious matters. I made a commitment in my first speech in this place that I would be a voice for vulnerable people in this place so I want to speak to the need for this legislation by looking at some of the historical examples that led to the introduction of this bill. The minister may be familiar with the case of a self-appointed massage therapist and counsellor called Matthew Meinck, who operated out of the Chittering Valley in the 1990s and 2000s. If members go back as far as 1991, they will find a judgement of the Supreme Court delivered on 17 May 1991 that outlines that Mr Meinck and his partner were running a wellness retreat in the Chittering Valley and were offering massage therapy. They were not only holding themselves out as providing massage therapy, they posted an ad in *The Sunday Times*, headed "Massage therapy". My notes show that the ad says treatment was provided "by highly qualified body workers, Matthew and Judy, of the Healing Touch Clinic, treating all muscular, spinal, postural and stress-related problems." Then there is a phone number. Despite the ad saying "by highly qualified body workers", it was an agreed fact about Mr Meinck in this judgement —

> The male defendant states (and I accept) that although he has no formal qualifications he has done 2 massage courses and read many texts on the subjects of Reflexology and Healing the Mind, (two books were tendered in evidence as illustrations).

That paragraph made me think of current examples of people doing their own research. This is an example of two individuals holding themselves out as being "highly qualified" in a field, but when their qualifications were questioned, it was found that Mr Meinck had attended two massage courses and read some books. Ultimately, Mr Meinck was found to have held himself out to be a physiotherapist under the former physiotherapists' act and regulations, when he was not. The judge in that case, His Honour Justice Walsh, made the following findings —

> I am of the opinion that the respondents, by the advertisement, held themselves out as being highly qualified persons who performed massage therapy for the purpose of treating (curing or alleviating) muscular and spinal problems including abnormal conditions of the muscles or spine …

For these reasons, Justice Walsh upheld the appeal and found that it was wrong of the magistrate not to find there was a breach of the physiotherapists' regulations. Justice Walsh went on to say —

> I do not accept the submission from counsel for the respondents that this prosecution "was a comparatively trivial case" which should be allowed to rest there.
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> …
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> Notwithstanding that the maximum fine is $50, the enforcement of the provisions of the Act is a matter of particular concern, having regard to the need to regulate, in the public interest those who seek to treat patients for muscular or spinal problems without being so qualified or at all.

That is a reflection back in 1991 of the need to regulate people who hold themselves out as being able to treat particular illnesses because, if they seek to do so, they can be a risk to the rest of the community. Unfortunately, despite that judgement in 1991, Mr Meinck continued to practice as a massage therapist and counsellor for many years until an exposé was run by Sarah Ferguson on *Four Corners* of 5 April 2010, Some expository work was also done by Colleen Egan in some Western Australian publications. I put on record my thanks for the great work of Sarah Ferguson and Colleen Egan in exposing that case. It transpired that Mr Meinck had been running wellness

retreats at the Chittering Valley property and had been engaging in what was essentially a form of brainwashing in the counselling that he did. He had convinced roughly a dozen of his clients that they were not only victims of child sex abuse but that they were also perpetrators of child sex abuse. Those memories were false; they were implanted by Mr Meinck in the course of so-called counselling sessions and led to the destruction of marriages, self-harm and all sorts of terrible outcomes. Unfortunately, the clip of this *Four corners* episode is not on ABC iview because it does not stretch back that far, but I was able to track down a segment of it on YouTube and watched it yesterday. It is absolutely harrowing to see these victims give personal accounts of how they had convinced themselves of their guilt and admitted to other people that they were perpetrators of child sex abuse. It is unthinkable, but after seeing these people talk about it, it seems that they essentially had become members of a cult and had been made to believe things about themselves that we would think would be impossible to believe about ourselves, but these people genuinely believed it, with horrifying consequences.

[Member's time extended.]

Mr D.A.E. SCAIFE: I want to give an example from the transcript of the episode of *Four Corners*. One of the victims, Michael, who is crying, says —

> … I said to Sara that I had raped her child. And Sara believed that Peter had been raping her child and that she had been raping her child … so she was really angry; rightly so.
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> And I felt that she should be angry, and I remember being, you know, she came up and clocked round the head with a water bottle … in her anger, and I felt that I was just … felt like I was totally worthless and useless and didn't deserve to even be alive.

What is also awful about this is that not only were all these memories that Mr Meinck had implanted into these victims' minds false, but also these people had admitted to committing terrible crimes. I also want to raise this in the context of the Parliamentary Commissioner Amendment (Reportable Conduct) Bill 2021, which was passed by the house earlier this week, because when Sarah Ferguson put it to Mr Meinck that if people were making these types of admissions to him of engaging in child sexual abuse, surely he should have gone to the police, his response was —

> I would never encourage actually any of my clients to go to the police or go to any authority on the topic because of the trauma they would go through.

That is an absolute indictment of Mr Meinck. He manipulated these people into this situation in the first place, but he would not advise people making these sorts of admissions to go to the police. Worse than that, as I outlined before, Mr Meinck had no qualifications. When Sarah Ferguson asked him about his qualifications, he openly said —

> No, I've got no qualifications whatsoever. Yeah.

Sarah Ferguson then said —

> Does that mean that you shouldn't be doing what you're doing? Are you safe to be doing what you're doing?

Mr Meinck then said —

> No, I always had an aversion to qualifications.

This person simply had no qualifications and also no interest in getting any formal qualifications or training.

I will very briefly give an example of the types of statements that Mr Meinck would make to people in therapy, and I give a warning that this is quite graphic. I am sure that the member for Dawesville would agree with me. I have seen a psychologist in the past, and continue to see my psychologist as and when I need to, but psychologists and counsellors have to be very careful in the way they talk to their patients because they can be quite suggestible and they do not want to ask, essentially, leading questions. This is the type of discussion that Mr Meinck would have with his clients. He would say to them —

> Where's he raping you? In which part of your body? Let the feeling come, bring your attention into your vagina now, feel the hurt that's in there. Feel how it feels.

This man was actively encouraging a patient to go along with this confabulation, not allowing them to tell it in their own words, but essentially putting these graphic ideas in their mind in a setting in which they trusted him as an authority figure. I give that example because, as much as I take no joy in talking about these really bleak stories, as someone who gets the privilege of serving in this place, I do not get to turn away from these sorts of things that happen in our society. I wanted to put that on the record as an example from Western Australia of individuals—I am not saying that Mr Meinck is typical; he is not typical at all; he is an extreme case—who, unfortunately, plainly need to be held accountable for their actions. We need to set a standard of what the community expects from people who hold themselves out as being able to treat illnesses.

The other case I want to refer to is a case that I am sure all members of the chamber will be familiar with, and that is the case of Penelope Dingle. Penelope Dingle died in 2005 after her rectal cancer spread to various parts of her

body. It was the subject of a highly publicised coronial inquest when I was studying law at university. Mrs Dingle was not averse to conventional medicine. She was receiving treatment and advice from various people like oncologists and oncology nurses, but she was also interested in alternative therapies. I am not necessarily against people accessing alternative therapies if that is helpful to them, but it needs to be done under the guidance and advice of a trained medical professional, and it should never be a substitute for trained medical advice and treatment. In this case, Penelope Dingle ultimately refused surgery until it was too late, despite the advice of the oncologists who were treating her, and she died from the spread of her rectal cancer. She had instead been seeking treatment from a homeopath, with fatal consequences, essentially. There is no finding that the homeopath in this case purported to be able to treat the cancer, but the findings of the investigation by Coroner Alastair Hope state —

> This case has highlighted the importance of patients suffering from cancer making informed, sound decisions in relation to their treatment. In this case the deceased paid a terrible price for poor decision making.
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> Unfortunately the deceased was surrounded by misinformation and poor science. Although her treating surgeon and mainstream general practitioner provided clear and reliable information, she received mixed messages from a number of difference sources which caused her to initially delay necessary surgery and ultimately decide not to have surgery until it was too late.

The coroner went on to say —

> While I do not agree with the proposition that such alternative medical regimes should be outlawed, unless and until their supporters can provide appropriate and sufficient science base, any apparent legitimisation of these regimes could provide mixed messages for vulnerable and often desperate cancer suffers.

I want to reflect on what was said there about people being desperate. Often people who are experiencing serious illnesses, such as chronic pain, cancer and the like, are in absolutely desperate situations. They may be in a desperate situation financially, but they are also in a desperate situation with their health. They are at their most vulnerable and, at that point, they are most open to being exploited by people who may very well be motivated by good intentions but who just end up sending mixed messages. They end up overwhelming people with information that does not have a proper scientific base to it, and that can lead to the sorts of fatal consequences that we saw in Penelope Dingle's case.

Those are just two examples from Western Australia in which the rise of, essentially, alternative medicines and therapies and, unfortunately, the wild west nature of some of these healthcare workers have led to really devastating consequences for individuals, including the emotional and psychological trauma suffered by people who fell under the spell of Matthew Meinck and the fatal consequences for Penelope Dingle after she was overwhelmed by what the coroner found was poor advice and mixed messages that did not have a scientific base to them.

I am really pleased to see this government signing up to the national code. It is a critical step forward in protecting patients and consumers of healthcare services. It is plain that there is a need for that as the industry grows, because people are often at their most vulnerable when they seek these types of services. I congratulate the minister on progressing this legislation and commend it to the house.

DR J. KRISHNAN (Riverton) [11.19 am]: I rise today in support of the Health and Disability Services (Complaints) Amendment Bill 2021. I first of all thank the Minister for Health for bringing such an important bill to this house. I also thank the previous speakers, the member for Nedlands, the member for Vasse and the member for Cockburn, for their valuable contributions. In particular, my special thanks go to the member for Vasse. In my contributions to health debates I have pleaded for the opposition to join hands with the government on important policies, and she has taken a step toward that by supporting this bill. I thank the member for Vasse.

What will this bill mean? A healthcare worker is, basically, a person providing advice to any person in Western Australia. There are two groups: registered and not registered. There are about 16 practitioner groups or professions that are controlled by 15 national boards, which prominently includes the Australian Health Practitioner Regulation Agency—AHPRA. This legislation is about the unregistered people or a registered practitioner who provides health care outside the scope of practice for which the practitioner is registered. There have been numerous examples of such healthcare workers and cases in the past that have caused health and safety issues for people in Western Australia.

Recently, an unregistered healthcare worker in the eastern states sent an email to all her clients, or customers, stating that she was not willing to see them for eight weeks if they had received a COVID vaccine. The explanation she gave was that there is evidence that people who receive the COVID vaccine shed the virus and she did not want to catch the virus. We all know it is completely false, and we do not want that impression to be taken seriously by the general public because it would eventually affect the health and safety of the general public. Action was taken to make a public health statement about this healthcare worker and an interim prohibition order was passed to stop the healthcare worker from continuing to provide such a wrong service. Currently, we do not have such a regulatory body in Western Australia, and that is why it is important that this amendment bill is passed.

The new powers will enable the director of the Health and Disability Services Complaints Office to take effective action on healthcare workers whose conduct or performance falls below standard. Usually, below standard—it is not limited to this—is impairment, intoxication, significant departure from significant professional standards or sexual misconduct. In addition, there are various other reasons that they drop below expected standards. After the implementation of the amendments of this bill, the Health and Disability Services Complaints Office will be able to investigate complaints, initiate own-motion inquiries into possible code breaches, issue interim prohibition orders, determine the conditions for practice in a prohibition order, and monitor compliance with an interim prohibition order or a prohibition order.

There are some key components of the amendment bill. It will add "injury" to the definition of "health service" so that will come under a regulatory process. Indecent assault, which so often happens, will be considered an injury, which is currently not the case. The second key component is adding to the definition "prescribing or dispensing a drug or medicinal preparation", "prescribing or dispensing an aid for therapeutic use" and even doing tests. I have come across lots of examples in consultations with my patients, and I have been told by my colleagues, that sometimes it is very surprising that people fall prey to faults by healthcare workers. In my experience, I have had a patient come to me and say, "My healthcare worker told me that I have problems with my thyroid." I was willing to accept that, and I said, "Do you have a copy of the results?" The answer given to me was, "The healthcare worker took a hair, put it under the microscope and diagnosed it." After so many years being in practice, I was confused why so much of the government's healthcare funding is spent on investigating when something could be diagnosed so easily! People fall prey to these things.

In my 25 years of being a doctor, I have not had a single patient come to me and say, "Can you show me your qualification before we start the consultation process?" That shows the amount of trust people have in healthcare workers and it is our responsibility to bring them under regulation so that we protect the health and safety of the public. Of late, the member for Cockburn clearly said that three out of four Australians are looking for alternative health opportunities. Diet plans and tonics that healthcare workers are offering without any evidence are becoming more and more popular. Sometimes it can be too late to act when the patient has already had significant kidney damage caused by a tonic or diet plan. It is our responsibility to bring this under a regulatory framework. That is why prescribing is included in part of the definition of a "health service".

I think a few of us remember seeing a few years back that a beauty parlour owner in Sydney was moved to the hospital urgently because of a botched breast surgery conducted by an unqualified person. The reason for that was intoxication with local anaesthetic and a painkiller overdose. That lady, unfortunately, died four days later in the hospital. An unregistered practitioner performed a cosmetic procedure that resulted in the death of a patient, and this is why we need to protect the public with health and safety measures. This bill will bring that.

In Western Australia, a complaint can be made to the Health and Disability Services Complaints Office only by someone who sought the service, someone representing the person who sought the service or their carer. But with this amendment bill, anyone will be able to raise a complaint.

Let me share another personal story. In the past, I have assisted the Australian Health Practitioner Regulation Agency in conducting investigations. In one such instance, it so happened that a practitioner had treated a patient for chest pain, and without investigating further, they treated the patient for reflux. That can happen; I do not deny it. But this patient presented again. The same advice was given and the patient was sent back home without even getting a basic ECG done. On the fourth presentation, the patient landed in the emergency department with a heart attack, or myocardial infarction. The patient was not aware that the general practitioner had missed the diagnosis on three previous occasions over the duration of a week. The patient went back to the GP, who did not even discuss what had happened but continued to provide care. The patient was not fully aware. A year and a half later, this patient started developing difficulty in swallowing. The same old doctor prescribed antacid medications on every visit. After a four-month delay, when this practitioner was on leave, the patient saw another practitioner, who found that they had advanced oesophageal cancer. That practitioner reported the previous practitioner to AHPRA and an investigation was initiated. The point I am trying to make is that there is a regulatory framework for the sharing of records—the medical records standards—that allowed the practitioner to report his colleague who was not up to the mark. Unfortunately, that does not exist for unregistered practitioners and a lot gets swept under the carpet and does not come to the surface. This bill is about allowing anyone to make a complaint so that the director can initiate an investigation.

The bill includes provisions for interim prohibition orders. This is extremely important, because when the director decides that a health and safety aspect is involved and immediate action is required before further damage is done, the director should have the ability to act immediately rather than waiting. Interim prohibition orders will allow the director to act immediately while an investigation goes on, which can take about 12 weeks. The bill will also enable interim prohibition orders to be extended. We have already said that the director will be able to issue a prohibition order at the conclusion of an investigation. The bill also contains provisions allowing prohibition orders to be appealed

to the State Administrative Tribunal, revoked or amended, and published on the website. There will also be a penalty of $30 000 for a failure to comply with an interim prohibition order or a prohibition order.

The member for Cockburn mentioned a story. In 1991, a judgement was made. There was no monitoring of complaints. The so-called healthcare worker continued for another 19 years, if I am right. This amendment will bring about the monitoring of complaints as well. Interim prohibition orders issued in Western Australia will receive mutual recognition in other states, but only if their legislation provides for it. Currently, all jurisdictions except New South Wales recognise prohibition orders issued in other jurisdictions.

The bill provides for the director to issue public health warning statements, either at the commencement or completion of an investigation. It will also provide expanded powers for conducting investigations and collecting necessary evidence under a warrant. When it comes to health, it is complex. Sometimes site visits are required to assess the type of care being provided. The bill will enable permission to search premises to collect more evidence to support the complaint in order to be able to make an informed decision. It will also allow the director to request from the Commissioner of Police information about the criminal health record of the healthcare worker to be able to make a better decision. A provision to enable the disclosure of information about a healthcare worker—excuse me; it is not COVID, Deputy Leader of the Opposition.

Mr R.S. Love: I've got your word for it; you're a doctor!

Dr J. KRISHNAN: It is just a dry throat.

This provision will allow disclosure about a healthcare worker to the commonwealth or other states and territories, so that if a fraudulent healthcare worker has a prohibition order in Western Australia, they cannot escape to another state and continue to cause damage.

Finally, on the issue of conversion practices, it was an election commitment of the McGowan Labor government to deal with this problem. I second the contribution made by the member for Nedlands. It is a sensitive issue. It is important, as these people or this group of people need support. This legislation will prohibit people from falsely claiming to have expertise to provide advice that in itself is not necessary. I will take joy in repeating the comments made by the member for Nedlands: Why fix a glass that is not broken? There is no problem, so why intervene and force them to change?

[Member's time extended.]

Dr J. KRISHNAN: Conversion practices, in the name of providing a health service, misguide people. As rightly said by previous speakers, they have caused damage to victims. This government gave an undertaking to support the victims and work towards putting an end to conversion practices. How will it do that? The government will do this by prohibiting LGBTQ+ conversion by social workers, counsellors and registered and unregistered health professionals; identifying and appropriately funding treatments; and providing positive support to LGBTQ+ people, and particularly victims of conversion. The national code is intended to apply to a range of unregistered healthcare workers who provide health services in different settings, which may include non-faith-based settings. Although the national code cannot be used to enact a blanket ban on conversion therapy and associated practices, it will provide a mechanism to prevent unregulated healthcare workers from undertaking practices that attempt to change someone's sexual orientation or situation. This bill is about adopting the national code. The bill will give priority to the health and safety of every Western Australian. I commend this bill to the house and thank you for the opportunity, Madam Acting Speaker.

DR D.J. HONEY (Cottesloe — Leader of the Liberal Party) [11.38 am]: As has been indicated by the shadow health minister, the member for Vasse, the opposition will support the Health and Disability Services (Complaints) Amendment Bill 2021. Although we sometimes come into this place and have harsh things to say about the Minister for Health, I congratulate the minister on this bill. The bill is not only worthwhile, but also well written and constructed. It is a credit to the minister and her department.

Traditional health professionals are obviously already covered by the national registration and accreditation scheme. As has been pointed out by other speakers, the growth in health services has necessitated that a broader regulatory framework be put in place. This was first recognised by New South Wales in 2008 when it introduced its code of conduct for health professionals. The code covers a range of areas. Health professionals must provide health services in a safe and ethical manner, and medical professionals diagnosed with an infectious medical condition must ensure that they do not put clients at risk. It also includes—this is clearly important—that health professionals must not make claims of being able to cure certain serious illnesses. Both the member for Cockburn and the member for Riverton discussed that particular issue. I will not go through the entire list but will just pick some items. It provides that health practitioners must not dissuade clients from seeking or continuing with treatment by a registered medical practitioner and must accept the right of their clients to make an informed choice about their health care. It provides also that they must not engage in improper conduct, must comply with privacy laws, and must display the code wherever they are doing their work. The New South Wales Health Care Complaints Commission has the power to issue prohibition orders, place conditions on a provider, and, importantly, warn the public about a provider. Offences are also created under that particular NSW act.

That clearly started a round of interest in this area. The New South Wales Health Care Complaints Commission received an average of 90 complaints a year from 2009 to 2012. I thought that was interesting. One of the concerns about this process is that it may be overwhelmed with complaints. Given that the population of New South Wales is about two and a half times our population, the number of complaints is expected to be manageable. I expect that with the growth of alternative healthcare services, the Minister for Health is already receiving a significant number of complaints, and that also highlights the need for this bill.

In 2011, South Australia introduced a similar scheme, with the establishment of the Health and Community Services Complaints Commissioner, and, in 2013, Queensland introduced the Health Ombudsman Act. Given the breadth of this move and the number of jurisdictions that were taking it up, there was extensive consultation right across Australia, under the auspices of the Council of Australian Governments Health Council, about the need for a consistent framework, and that culminated in the 2015 National Code of Conduct for Health Care Workers and the implementation framework.

I have been here only for the contributions to the debate from the member for Cockburn and the member for Riverton, but I very much want to reflect the comments that they have made. We are seeing substantial growth in services in the areas of general health and wellbeing, and exercise, and that creates the potential for the provision of false or misleading information. One of my younger children is very keen on fitness and exercise and goes to a gymnasium regularly. It appears that gymnasiums are a hotbed for the distribution of dubious health and medical advice. Gymnasiums promulgate all sorts of treatments. The Minister for Police would be very familiar with the fact that illegal drugs to enhance performance and muscle growth and the like are being distributed by gymnasiums. I am sure that both the Minister for Police and the Minister for Health are aware that in some cases, that is causing people life-changing harm.

Mr P. Papalia: Not all gyms.

Dr D.J. HONEY: No, not all gyms. I do not blame the gymnasiums for this. The problem is that some gymnasium patrons are using them as a place to recruit unwitting people into their various schemes. The minister is correct. I have good regard for gymnasium operators. I am sure the great majority of them are very reputable. But there are patrons who target people at gymnasiums, particularly those who want to get fit faster and improve their stamina.

There is also growth in other areas. I reflect in particular on the comments of the member for Cockburn about certain rumours and misinformation about the COVID pandemic that are being circulated and promoted as highly credible. That includes misinformation about vaccines. That may obviously be incredibly harmful. I have said consistently that the single most important thing anyone can do is get vaccinated, and triple vaccinated, particularly for protection against the Omicron strain of the virus. I am sure that in six months, we will all be heading deeply into quadruple vaccination, which vulnerable people are certainly already doing. People are also promoting false cures. As we all know, that is also potentially life threatening.

It is pleasing that this bill has come before this Parliament. People need protection from incompetent and fraudulent service providers. As we know, and as has already been mentioned, it is often the most vulnerable people who are looking for hope or a miracle cure that will alleviate the condition that they are suffering from. There are fraudulent operators who prey on those people and offer false hope, or, as we have also heard, try to prevent them from getting treatment, which may exacerbate the disease, with potentially fatal consequences, when conventional medicine could provide proper treatment for that disease.

As I have said to the minister—I think the minister knows I am very genuine in saying this—this is a very well laid out bill. It is pleasing that the bill captures all the necessary aspects. Obviously the director of the Health and Disability Services Complaints Office will ultimately be responsible for the administration of the bill.

I like the focus, in the amendment to section 34, on looking to settle or conciliate before a matter goes to investigation. That is formalised in the bill. That is a very good structure that will avoid unnecessary prosecution and time in court. Remedies will be available to the director in dealing with an issue that they identify, such as being able to apply interim prohibition orders for 12 weeks, which will give the director time to consider a matter and perhaps move to a permanent or some other time-bound direction or prohibition in relation to a matter.

The proposed penalties in the bill are appropriate. They are serious penalties, with a fine of up to $30 000. That will reinforce the gravity and seriousness with which the government is taking this matter. The director will be given the ability to publicise information about orders. As was pointed out in the examples that I have heard this morning, because people often operate privately, no-one is aware that they are being misleading or fraudulent. Proposed section 52O in division 3 will provide the director with the ability to publicise information. That is critically important.

We also know—I do not put myself in any other basket on this one—that everyone is capable of making mistakes or getting a decision wrong. In undertaking a review of the State Administrative Tribunal, the government has

taken the prudent step of confirming that the SAT believes it has the capacity to deal with the likely number of appeals that could come its way.

I am also very much in favour of the interstate orders in division 5. As we know, jurisdiction shopping happened in the past, before we had uniform legislation relating to medical practitioners and other health professionals. Individuals who were prosecuted or stopped from operating in one jurisdiction simply moved to another jurisdiction. It is very important that those interstate orders can be applied.

With regard to part 3E, "Public health warning statements relating to health care workers", it is again important to have that communication available to the broader community so that they are aware of malpractice in relation to some services that are offered.

There are strong powers under clause 33, which will amend section 60 of the act. Under those powers, witnesses can be compelled and there are appropriately strong powers in the bill to ensure that that will occur.

I also think that proposed section 68A, "Disclosure of information to other Commonwealth, State or Territory entities" is vitally important to avoid the jurisdiction shopping issue. Again, historically, there have been issues with people who are not of good intent being found guilty of malpractice in one jurisdiction and moving to another jurisdiction, and the second jurisdiction being unaware of their malpractice. It is very important that the legislation deals with that.

The most important part is proposed section 77A, "Codes of conduct". I appreciate that that will be introduced by way of regulations. We have excellent models. We obviously have the national code of conduct for healthcare workers, and we have excellent examples in the other states. The good fortune is that, given the passage of time since 2008, there has been a good opportunity to see whether there is any refinement required in those. I am very much looking forward to the speedy promulgation of those regulations. I would be interested to hear from the minister about when we can expect to see those regulations come forward. I assume it will be reasonably prompt, just because there is such maturity in the development of the unified code of conduct and the experience of the other states, which I have already mentioned. Otherwise, I commend the bill to the house and I again congratulate the Minister for Health for bringing such a well-written bill to the house.

MR S.A. MILLMAN (Mount Lawley — Parliamentary Secretary) [11.53 am]: I rise to make a short contribution to the second reading debate on the Health and Disability Services (Complaints) Amendment Bill 2021. I thank the member for Cottesloe for his contribution and I start by referring to the comments he made about the amendment to section 34 of the current act, the dispute resolution mechanism, and the opportunity for alternative remedies.

I will start off by analysing the current act and the way it operates, and tackle the notion of restorative justice. Although this is usually a notion that pertains to criminology, when regard is given to the way in which this scheme operates, we can see that some of the objectives of restorative justice are met in the operation of the act. Howard Zehr, who is the modern architect and leading intellectual authority on restorative justice, summarised its key aspects this way. In determining whether justice is being served, we need to ask the following questions: Who is being hurt; what are their needs; whose obligations are these; what are the causes; who has a stake in the situation; and what is the appropriate process for involving stakeholders, in an effort to address causes and put things right? That is in contrast with the traditional criminal justice system, which asks: what laws have been broken; who did it; and what do they deserve as punishment?

I raise that point at the outset because there are avenues that people who have suffered injury, damage or loss as a result of health treatments can pursue; the law of medical negligence is one of them. But those avenues are not always going to be appropriate, so this legislation is a really important mechanism for making sure that people who access our health services have an opportunity to be heard and to access this restorative justice approach.

The timing of this bill could not be better. At the moment, as a number of members have already said, we have a strong focus on health outcomes in the midst of an unprecedented and significant global pandemic. Nowadays, people are thinking about, talking about and acting upon their health concerns. It is important that the regulatory framework we have in place is fit for purpose. I want to sing the praises of the Minister for Health in the highest possible terms. Busy as she already is, with all the work she is doing to keep the community of Western Australia safe in the midst of the COVID pandemic, she still has had time to bring forward this legislation, which is an important piece of our health architecture. She has done so in a way that even drew gracious commendation from the member for Cottesloe, so congratulations, minister.

This legislation is timely. As other members have already alluded to, over the last few decades we have had a significant proliferation and diversification of health strategies. For the purposes of completeness, I want to go through the history of the national scheme and the Australian Health Practitioner Regulation Agency, which is the national body. Other members have spoken about the long gestation period, but the Council of Australian Governments decided

in 2008 to establish a single national registration and accreditation scheme for health practitioners. On 1 July 2010—it was 18 October 2010 for Western Australia—a number of professions became nationally regulated by a corresponding national board. Many of the boards predated the commencement of the national scheme, and a lot of those boards were state based, but the professions regulated included: chiropractors, dental practitioners, medical practitioners, nurses and midwives, optometrists, osteopaths, pharmacists, physiotherapists, podiatrists and psychologists. That was the first iteration of the scheme, and they were the first professions regulated.

Almost from the outset, the ability of this scheme to be flexible and responsive was highlighted when, in July 2012—only two years after its commencement—the following additional professions were added to the scheme: Aboriginal and Torres Strait Islander health practitioners; Chinese medical practitioners, including acupuncturists, Chinese herbal medicine practitioners and Chinese herbal dispensers; medical radiation practitioners, including diagnostic radiographers, radiation therapists and nuclear medicine technologists; and occupational therapists. In December 2018, paramedicine—something particularly pertinent to you, Acting Speaker (Mrs L.A. Munday)—became the newest profession to join the national scheme, making the title "paramedic" protected nationally. That is something I am sure the Acting Speaker is aware of.

The scheme sets up a number of national boards that have responsibility for ensuring appropriate conduct in their fields. Many national boards currently support the national scheme, including the Aboriginal and Torres Strait Islander Health Practice Board. The boards of the following fields also support it: Chinese medicine, chiropractic, dentistry, medical, medical radiation practice, nursing and midwifery, occupational therapy, optometry, osteopathy, paramedicine, pharmacy, physiotherapy, podiatry, and psychology. They are all of the national boards that sit within the system.

In Western Australia, the entity that plays a crucial role in the regulation of health and allied health is the Health and Disability Services Complaints Office, the organisation to which this bill is directed. Members may be aware—other earlier speakers probably alluded to it—that last year marked the twenty-fifth anniversary of HADSCO in WA. It commenced operation on 16 September 1996. In the time since HADSCO was founded it has received over 50 000 complaints. Over 1 200 service improvements have resulted through the work of the office and over 1 100 redress outcomes have been achieved over the last five years. The year 2021 marked the twenty-fifth anniversary of the office. Originally it was called the Office of Health Review, and it was established under landmark legislation, the Health Services (Conciliation and Review) Act 1995, which was created to improve the quality and accountability of the Western Australian health system. This is a point I will return to before I conclude.

There is no problem having a body such as HADSCO. Having a body to which complaints can be ventilated and having a board dealing with medical negligence in Western Australia provides an opportunity to interrogate the way that health services are delivered so we can continue to improve the delivery of those services. It is a fundamental feature that gives rise to our world-class health system. We in Western Australia are the beneficiaries of probably the best health system in the world, and patients using that system are well within their rights to raise issues and concerns about the services provided by it. That health system is not simply the preserve of the Minister for Health and the government of Western Australia. The level of service provided to the citizens of Western Australia is a function of the WA Department of Health and the health service providers, but also general practitioners—like the member for Riverton—paramedics, allied health professionals, private hospitals, private providers and clinicians with their own rooms. The way we are able to preserve our world-class health system is through the collaboration and cooperation that exists. That is a point that I will come back to because I have some concerns about circumstances that might arise in the context of the global pandemic that will undermine that sense of cohesion, collaboration and cooperation. We had this world-class Western Australian health system, and the introduction of the Office of Health Review was created to improve its quality and accountability and, I would also say, transparency. The act provided an entirely new concept and way of thinking about the handling of health complaints, recognising the importance for all parties to be involved in the resolution process and allowing deficiencies in the health delivery system to be identified and improvements and changes to be implemented. That is still a vital feature of the health system 25 years later. As I said, it draws on those principles of restorative justice that we have seen in criminal law over the past 40 and 50 years.

In 1999, the state Parliament legislated to transfer the responsibility for handling complaints about disability services to the office, and following a review, the revised Health and Disability Services (Complaints) Act 1995 came into effect in 2010. This resulted in the office having access to negotiated settlement as a resolution option, as well as a name change for the agency to what is now known as the Health and Disability Services Complaints Office. With the implementation of the Mental Health Act in 2014, the office also took on the responsibility of managing mental health complaints. With the implementation of the Voluntary Assisted Dying Act 2019 in 2021, again testament to this particular minister, HADSCO can receive complaints about the voluntary assisted dying process, which is one of the safeguards provided for in that important legislation. In its first year of operation, 621 complaints were received by the office. Today, over 2 800 complaints a year are received by HADSCO. HADSCO works closely

with community service providers of holistic health, disability and mental health care services to the people of Western Australia.

Where this bill sits in the current legislative framework is that the primary act for HADSCO is the Health and Disability Services (Complaints) Act. We also have part 6 of the Disability Services Act, which I have mentioned already, and part 19 of the Mental Health Act. HADSCO also has shared legislative responsibility for complaints relating to declared places, places identified by the Disability Services Commission for the detention and rehabilitation of people who are mentally impaired accused under the Declared Places (Mentally Impaired Accused) Act 2015. In terms of law reform, watch this space when it comes to the Declared Places (Mentally Impaired Accused) Act. In accordance with the Health Practitioner Regulation National Law (WA) Act 2010—this comes back to the point that I raised at the start about Australian Health Practitioner Regulation Agency—HADSCO consults the Australian Health Practitioner Regulation Agency about complaints relating to registered health practitioners to determine the appropriate agency to manage the complaint. HADSCO may manage complaints about health, disability and mental health service providers that do not comply with the Western Australian Carers Charter under the Carers Recognition Act. Again, this is similar to what the member for Nedlands spoke about in her contribution as far as social work is concerned. Hers was a very important contribution and I urge those members who did not have a chance to hear it to look at *Hansard*. It was an erudite and thoughtful contribution from the member for Nedlands.

I distinguish here between the social workers whom the member talked about and carers. Carers must be treated with respect and dignity. The role of carers must be recognised by including carers in assessment, planning, delivery and review of services that impact on them and the role of carers. When decisions are made, the views and needs of carers must be taken into account, along with the views, needs and best interests of people receiving care that impact on carers and the role of carers. Complaints made by carers about services that impact on them and the role of carers must be given due attention and consideration.

Members can see that there is a complicated legislative framework operating here that deals with not only all sorts of different medical endeavours, but also the interplay between state and federal responsibilities for regulating and remedying concerns with the health system and the delivery of services.

Having set the framework, I just want to get to the substance of the bill and what it will achieve. I will not spend too long on this issue because other members have already addressed it. The significant regulatory reform over the past 10 years, particularly with the introduction of the national registration and accreditation scheme through the Australian Health Practitioner Regulation Agency, has altered the way in which complaints about health services can be addressed. I quote the second reading speech of the bill —

> In recognition of this evolving context, this bill will amend the Health and Disability Services (Complaints) Act 1995 to introduce the national code of conduct for healthcare workers.
>
> This amendment bill has a strong focus on protecting those using unregulated health practitioner services. It will address an existing regulatory gap in relation to healthcare workers who are not registered under the 15 professions registered under the NRAS …

I have dealt with those already in my contribution this afternoon. Further the second reading speech states —

> The national code contains 17 clauses that set out the manner in which healthcare workers should undertake their practice. Amongst other things, the national code requires healthcare workers to provide services in a safe and ethical manner, including not providing health care of a type outside their experience or training, or services they are not qualified to provide; not make claims to cure certain illnesses; not financially exploit clients; and not engage in sexual misconduct or improper personal relationships with a client.
>
> …
>
> The national code allows the vast majority of ethical and competent members of a non-registered health profession to self-regulate. However, it gives an additional level of public protection in situations when health workers have been found to be in breach of the national code, and their continued provision of health services presents a serious risk to public health and safety.

This is where the tradition of the McGowan government in adopting the right balance in its regulatory approach is highlighted once again. This is not a heavy-handed approach. This is a proportionate response to the challenges that have been presented. We have self-regulation and the checks and balances in place to protect public health and safety.

The national code already operates in New South Wales, South Australia, Queensland and Victoria and is being implemented in other jurisdictions. As it has been done on a number of occasions in a number of different fields of endeavour, the McGowan government is ensuring Western Australia can successfully operate in national schemes. In the next little while we will debate how we can achieve that within the legal profession.

One of the interesting amendments this bill brings before the house—I think others have already spoken on this, so I will not dwell on it for too long—is that the director of the Health and Disability Services Complaints Office will have own-motion powers. I talked earlier about restorative justice and bringing parties in to participate.

[Member's time extended.]

Mr S.A. MILLMAN: This new own-motion power to initiate an investigation into an alleged breach of the national code is a significant and important development in the legislation because no-one is better placed to identify where there are systemic concerns or particular operational concerns than somebody who is dealing with these complaints on a regular basis. There will be a line of inquiry in much the same way as, say, the WorkSafe WA Commissioner can investigate an unsafe workplace.

The other matter I want to mention, which the member for Riverton spoke about at length, is that new part 3D will give the director the authority to issue an interim prohibition order to allow for an investigation into a healthcare worker's conduct to be completed without any risk to public health and safety. That decision can be appealed to the State Administrative Tribunal. In terms of striking the balance, there are a number of protections for those whose practice will be the subject of this reform to seek relief if need be. It highlights the delicate balance that has been struck by the McGowan government.

I will touch briefly on what the bill does more substantially. The national code has been developed as a nationally consistent legislative model in accordance with the policy guidance provided by the former Council of Australian Governments Health Council in the *Final report: A national code of conduct for health care workers*, dated 17 April 2015. The national code of conduct or a comparable code of conduct is already in place in New South Wales, Queensland, South Australia and Victoria. The bill will incorporate the following amendments that will provide for the implementation of the national code in Western Australia in light of the code provisions in the final report: complaints about the conduct of unregistered healthcare workers; the protection of public health and safety; investigations into breaches of the national code; penalties for breaching prohibition orders; and right of appeal. This last point is what I just touched on. A healthcare worker will have 28 days from the time they receive a prohibition order to make their appeal to SAT. That is for the protection of healthcare workers. Additionally—this is an important consideration—often people who make complaints might not be satisfied with the way the complaint is investigated. The discharge of the investigation of the complaint is probably completely professional and with significant interrogation and significant undertakings by the statutory authority. However, this legislation has the added safeguard for complainants that a person who makes a complaint to the director and is not satisfied that the complaint was properly managed may request an internal review or may seek a review by the Ombudsman of Western Australia. I talked about the independent statutory authority yesterday when we debated the Minister for Community Services' legislation on the parliamentary commissioner. The importance of the Ombudsman has already been highlighted, so I do not need to highlight it again. A complainant who is not satisfied with the way a complaint is handled also has that avenue available to them.

I will make some final comments. I started by saying that the timing of this bill was incredibly important in the context of the global pandemic. I want to thank members of the opposition for supporting this legislation and for supporting—albeit, not perfectly, but on occasion—the government's handling of the COVID-19 pandemic. Two risks present themselves to the world-class health system that we enjoy in Western Australia, and unfortunately both of them come from the right of the political spectrum. First, it is a worry that the budget that was handed down by the federal Liberal–National government does not do more to support healthcare workers in the aged-care sector, the disability sector or the primary health sector. These are three key areas of federal government responsibility. The challenges to the WA health system are only exacerbated by a lack of commonwealth investment. Although this legislation is important and the McGowan government is beyond reproach in the way it has handled the pandemic, it would be helpful if we had a federal government that put greater emphasis on properly funding health care and properly supporting healthcare workers in particular in sectors such as aged care, disability and primary health.

The second concern I have around the quality of the Western Australian health system is the attacks that have been made by radical right-wing elements that are undermining excellent public health policy. Over the past 18 months to two years the COVID-19 pandemic has wreaked havoc on the entire globe. Millions of people have died and millions and millions of people have been diagnosed with COVID-19. In Western Australia we are incredibly blessed, thank God. We took the time and we paid attention to what we were doing to ensure that a sufficient proportion of the population were vaccinated. Irrespective of what side of politics members are on, the unparalleled success of the state's vaccination program stands as an outstanding public policy achievement. Irrespective of what people's philosophical position might be, to set a target to have the vast majority of the population vaccinated against COVID-19 and then to achieve that is a phenomenal public policy success. It is incredibly disappointing and disheartening to see the right-wing elements, not so much in this chamber, but definitely within Western Australia

and Australia, and particularly internationally. I think in particular of the Governor of Florida, Ron DeSantis, and the sorts of people who are deliberately and specifically undermining public health initiatives and public health efforts that are designed to keep communities safe.

We need to be vigilant about those two things. I note that the federal Leader of the Opposition, Anthony Albanese, made a fantastic commitment to aged care in his budget reply speech. We need to ensure that when it comes to the provision of public money, we have the resources available to our public health systems so that they are properly funded and the world-class health system that we currently enjoy can be preserved, protected and enhanced from a resources perspective. Thank goodness the McGowan government has demonstrated the fiscal responsibility it has over the past five years to ensure that we have the capacity to make investments in the health system over the next five, 10 and 15 years to maintain that world-class health system. That is the first point about which we need to be vigilant, but we must also be vigilant in staring down, calling out and condemning the ridiculous attacks from the right-wing fringe elements—I have spoken about this before, so I do not need to go over it again—some of whom it is scary to see have crept into the ranks of the Liberal and National Parties in other jurisdictions. I heard the former Minister for Health call out Hon Nick Goiran in the other place for his less than fulsome support of our vaccination regime. I endorse those comments by Minister Cook and I know that Minister Sanderson stands on exactly the same basis with Minister Cook in calling out those concerns. It would be great to hear more from the Liberal and National Parties in Western Australia in commending the McGowan government's handling of the COVID-19 pandemic and calling out the anti-vaxxers and that one element in the right-wing political spectrum in Australia by saying that those people have no place in the Liberal and National Parties and what they say bears no resemblance to sensible government. It would be great to hear that what the McGowan government is doing to protect public health and safety has the full-throated, unambiguous, unequivocal support of the Liberal–National alliance in Western Australia. I will wait to see whether that happens; hopefully, it will, because in the comments of the members for Vasse and Cottesloe I can hear that there is a tendency towards support for the government's position. I just hope we see and hear more of that into the future.

Having said that, let me conclude on the point I started on; that is, this is an incredible, important and timely reform and it is a credit to the minister that it has been brought before this chamber in circumstances in which we are wrestling with an unprecedented and unparalleled global pandemic. On that note, I commend the bill to the house and the minister for the hard work she has done.

MR S.N. AUBREY (Scarborough) [12.20 pm]: I rise in support of the Health and Disability Services (Complaints) Amendment Bill 2021. More importantly, I rise in support of all members of the LGBTQIA+ community, of which I am a member. I want every member of this community as well any other diversity group facing discrimination and persecution to know that you are not alone, you are loved, you are valued and you are cherished for who you are. This bill will bring Western Australia in line with the national code of conduct for unregulated healthcare practitioners. It is a step forward in protecting the LGBTQIA+ community from the practice of sexual orientation and gender identity change efforts, or SOGICE. It is a practice that is deeply harmful and traumatising to the members of my community. I am going to focus on this.

I will start with the story of one man who has had an immeasurable impact on the modern world—part of him lives on in every piece of modern computer technology. That means all of us carry his legacy in our smart phones and computers, and some members are alive today because of this man. A mathematician, he is credited for being the father of theoretical computer science and artificial intelligence. He played a crucial role in cracking the Enigma code, which enabled the Allies to defeat the Nazi powers in many crucial engagements, including the Battle of the Atlantic. The official war historian Harry Hinsley estimated that this work shortened the war in Europe by more than two years and saved over 14 million lives.

Two of my great-grandfathers fought in World War II. I do not believe there would be many people in this house who are not descendants of men and women who took part in that war. If not for the actions of this man, my great-grandfathers might not have come home from that war, and as a result I might never have existed or stood here addressing this house today. Alan Mathison Turing, born 23 June 1912 in London, England, once said —

> Sometimes it is the people no one imagines anything of who do the things that no one can imagine.

Alan Turing was crucial in the defeat and destruction of the Nazi regime. It was a regime that arrested homosexuals and put them into concentration camps, where they were often subjected to physical and sexual abuse and death. There is poetic justice in a gay man being so pivotal in the destruction of a fascist regime whose racist ideals produced murder on an unprecedented scale. For all he did, for all the lives he saved, for the war he helped win and for the immeasurable impact he has had on the free world today, would members think that in his time Alan Turing was lauded as a hero, as an icon? No, he was not. Much of his work during the war was classified. In 1952, upon discovery of his sexuality, Turing was charged with gross indecency. He was given the option of prison or chemical castration. It was a choice of losing his physical freedom or the freedom of his identity. Turing chose the latter so he could

continue his work and continue to contribute to the advancement of his fellow human beings, despite his mistreatment. His conviction led to the removal of his security clearance and barred him from continuing his consultancy to the British government. His actions had saved much of the free world from the tyranny of a fascist regime, but he could not be saved from the prejudice and persecution of his own government and people.

Turing was subjected to injections of a drug then called stilboestrol, intended to suppress and convert his sexuality. The treatment rendered him impotent by changing hormone levels in his body, which also changed him physically, with the formation of breast tissue. Two years later, on 7 June 1952, Turing died of cyanide poisoning in his home in Manchester. His death was reported as a suicide but that has been disputed for many years. What is known, though, is that a man who has since been acknowledged as one of the most innovative and powerful thinkers of the twentieth century, who saved the lives of millions and is a hero of the free world today, died a criminal for being a homosexual.

Alan Turing has been a guiding influence on my life. His devotion to service to his country and to making the world a better place through hard work speaks to my heart. It breaks my heart that someone who did so much for his country and the world could be treated in such a way by the very people he worked so hard for.

Madam Acting Speaker, John F. Kennedy once said —

> Change is the law of life. And those who look only to the past or present are certain to miss the future.

Times have changed considerably since the days of Alan Turing; we have made great strides in ensuring greater equality for the LGBTQIA+ community. I would like to place on the record my appreciation to all pioneers of the LGBTQIA+ community across the world and across time who have fought for equality. Some who currently serve or have served in this Parliament are Minister Stephen Dawson; Minister John Carey; Lisa Baker, member for Maylands; Hon Peter Foster, member for Mining and Pastoral Region; and senator for Western Australia and former member of the Legislative Council, Louise Pratt.

I stand here as a legacy of their efforts; I stand here as one holding the baton with my allies. But let me assure you, I am not running. I am now going to share my own story. It is not a story I share lightly; it is not a story that I have commonly shared with many to this level of detail, and now it will be on the public record for everyone to know. It does not come easy to me to share it, but as a LGBTQIA+ member of this house it is important that I share my story and show leadership and strength. I ask other members to listen closely with understanding and empathy, because I aim to help others in this house understand the importance of this bill as being a step forward in banning a practice that traumatises, denigrates and discriminates against people of my community. It is a practice that causes deep and long-lasting harm to the victims.

Madam Acting Speaker, I grew up in a loving household, a stone's throw from the beach, in a quiet cul-de-sac in Watersun, a beachside suburb of Mandurah. I attended North Mandurah Primary School, where I was a happy, caring and intelligent student. My father taught at the high school next door. My brother and sister were in school with me. They in fact had the distinct pleasure of being taught by Minister Templeman back when he was a teacher—an opportunity I just missed out on, or dodged, as he successfully entered politics as the member for Mandurah. Luckily, I get to learn from him now. I was the captain of my school faction, Jarrah, and a PA technician. I was doing well in primary school, living a very vibrant and happy life. I then went on to Frederick Irwin Anglican School for secondary education. It was in high school that I started to feel confused about my sexuality. I began to feel socially anxious around my peers. I began to retract into myself. My education began to suffer as I spent more and more time in my head, worried that my fellow students and teachers would discover my secret and I would be chastised, ostracised or discriminated against. My constant stress and anxiety about my sexuality led me to seek an outlet to cope; that outlet was food and video games. As a 15-year-old, I weighed more than I do now at twice that age. I supressed and denied my sexuality for years. As a result, I developed depression, anxiety and a binge eating disorder.

It is a hard thing to come to terms with at a young age—to accept that your life is going to be considerably more difficult because of a factor beyond your control, for being born a certain way. Women know this feeling all too well, as do Indigenous Australians and other members of minorities across Australia. To survive, I focused on work. I excelled in my apprenticeship because I gave it my all. I learnt the value of hard work and merit; it became my crutch, my distraction, my escape. I felt a burning need to prove myself—a need to feel valued in the hope that if anyone discovered my sexuality, it would be overlooked because I was too valuable for my hard work.

When I was 21, my apprenticeship ended, and I was a fully qualified electrical tradesman free to work and earn a living. It was a wonderful accomplishment. But I also lost that focus, that crutch. Without that focus to distract me, I had to come to terms with my sexuality. I began to spiral. The fear of losing friends, family and my community was more than I could bear. Dark thoughts crept into my mind that told me it would be easier if I just ended it—death had to be better than continuing to feel the constant shame, pain and anxiety. My friends had noticed my change in behaviour. They could see I was struggling and they made efforts to help, to find out what was wrong, but I could not face them. I can vividly remember a moment that was a turning point for me. I was on my way to

a job at Garden Island when I saw a jagged sign, damaged by a car, on the side of Rockingham Road and a thought entered my mind. The thought was that I could slit my wrists on that jagged sign and the pain would all be over. This was the time I had moved from passive suicidal ideation, or thinking about death, to active suicidal ideation, and it scared me. It scared me straight—not quite! I reached out to those friends and told them that I needed their help and that I needed them to hold me to account and to not let me avoid the conversation. In September 2012, I came out to five of my closest friends: Griffin Millburn-Thomas, Ben Hardman, Tyne Darch, Reece Sheridan and Mitchell Hardman. Thank you for your support and thank you for your unconditional acceptance and love.

Coming out to my friends was one of the best days of my life. A huge weight was lifted off my shoulders, but it was not long before the walls started closing in again. I still had to tell my family, my colleagues, my other friends, my extended family, my future colleagues, my future friends and my future community. Everywhere you go as a gay man, every person you meet, every new workplace you start at and every friendship group you join, you must come out. People say that it should not be that way and that no-one in society must come out as straight, so why should I have to come out as gay? That statement is true, but we are not there yet.

A year later, I gradually had come out to more friends, my sister and, eventually, my parents. I could not do it myself; I made my sister do it for me. Although I should not have had to come out, I will regret until the day I die not having the strength to tell my parents. I thank my sister and my mother, as well as my extended family, for their unconditional support and love for me. I talk often about my mother. She is my rock, my champion, my protector, the source of my values and the reason why I am who I am. I never talk about my father, so much so that many people mistakenly think that my mum is a single mother. Growing up, my family was structured like many in Australia. My father worked and earned the money and my mother stayed at home to raise the kids. Although I am grateful every day for having the quality time with and nurturing of my mother growing up, I would like to see more opportunity for mothers to re-enter the workforce and not be relegated to a stay-at-home role. I would see equality. The reason people never hear of my father is that he is not part of my life and has not been for many years because of my sexuality, and I will not speak of him further.

I am grateful every day that I was born and grew up in Australia. The LGBTQIA+ community across the world faces far worse and far more persecution than I or my community will ever experience here in Australia. My life has not been easy because of my sexuality, but it is far from the worst that people of my community experience across the world. I cannot give blood because of my sexuality, but the blood of others is shed because of the same sexuality. I am stared at for holding hands with, kissing or showing affection to another man in public. The hands of others are cut off or they are castrated or killed for doing the same in private. I am grateful for the fact that I can live free from the fear of death for my sexuality, but I cannot live free from judgement for my sexuality. I have had to protect my identity and privacy in the past when working on the remote mine sites of Western Australia. It is easy to dismiss as prejudice the attitudes of many of these people who make the odd homophobic comment. In some cases it is, but for many it is not prejudice; it is fear and misunderstanding.

Having learnt this after a time, I began to carry myself in a different way. I do not hide my sexuality anymore, but I do not let it define me or let others define me because of it. The worst thing about stereotypes is that if you let them, they have a way of defining who you are and what you stand for before you enter a room. Mark Latham, a member of the Parliament of New South Wales, said in reference to LGBTQIA+ members of Parliament across the country, and I quote —

> These MPs are driven more by sexuality than party ideology. Gays have higher incomes and education levels and stronger political and media access than the rest of society, yet the MPs persist with a precious persecution complex overriding more important and valid equity issues.

In response to that man, whom I have never met and who has never met me but feels he can pass judgement on my integrity and what drives me, I say: I am who I am today because I worked incredibly hard, despite the challenges I have experienced in life because of my sexuality, and I am driven by more than just self-interest, sexuality or faith—or, in my case, lack of faith. I do not define myself by my sexuality, race, age or sex. I am a sum of my parts and you do not define me. I am a proud tradesman, a highly qualified electrical technician, a mine worker, a FIFO worker, a mines rescue paramedic, a safety and health representative, and a hardworking contributor to the Western Australian economy. I am a proud surfer, a surf lifesaver, a volunteer, a swimmer, a scuba diver, a hiker, a cyclist and an explorer of this great state and this great nation.

I am a proud son, a brother, an uncle, a grandson, a friend, a best friend, a boyfriend and, one day, a husband to a very lucky man! I am my core values of courage, loyalty, equity, honesty, integrity, quality, leadership and altruism. I am my life's mission to experience life to its fullest; to serve and protect Australia, its interests and its people; and to always grow to be the best I can be to contribute to a positive impact on Australia, humanity and the world in the time that I have on this planet. I am a proud gay man. I am an atheist. I am a Mandurah boy who grew up to be a Scarborough man and the member for Scarborough. I am a proud Western Australian and a proud Australian.

I define who I am, and I will not be boxed in by those who peddle hate and discrimination to hide their fear and insecurity in a world that is moving beyond a place that advantages one group to the detriment of others in society. I will always fight for my community in Scarborough and for equity for all, and I will always fight for a fairer and better future for all Western Australians. You do not define me. You do not define us.

To anyone who experiences discrimination for your sexuality, sex, race, creed, disability, faith or lack of faith, you define who you are. You determine your future and if you respect the basic human rights of others and follow the rule of law, you have the right to live your life free from persecution and prejudice. I stand here as a member of the Western Australian government defending not just your right to equity, but everyone's. I hold the baton, along with my colleagues and allies in the Labor Party. I am standing my ground and I will advance the protection of the vulnerable, the marginalised and the oppressed. I will fight for true equity in our society forever and always. It is the Australian way. It is the Labor way. It is my way.

I thank opposition members for their support of this amendment bill. I would ask that they show that support in the upper house with their other colleagues. I thank my parliamentary colleagues for their contributions to the debate and for their support. I thank the minister for her carriage of and support for this bill. I commend the bill to the house.

MS A. SANDERSON (Morley — Minister for Health) [12.37 pm] — in reply: I thank the member for Scarborough for his contribution in particular. It is not an easy thing to give a speech like that in this place, but the experiences we have in our lives, and the diversity of those experiences, make for a better debate and, frankly, a better government. We are very proud to have the member for Scarborough as part of the McGowan government. He has really demonstrated the pain and suffering of members of the LGBTIQ community, particularly from the so-called conversion therapies, or reparation therapies as I think they are also known. It is a very tough thing to do. It is a significant driver of the Health and Disability Services (Complaints) Amendment Bill 2021. There is no question that the LGBTIQ community has been subject to some incredibly damaging trauma, with deep and long-lasting pain and suffering, from some of these so-called conversion therapies practised by people who purport to be counsellors or social workers or who dress themselves up as all sorts of other professionals providing health advice. It is important that we protect our community from those people and practices and that we put in place a robust regulatory framework that also has significant penalties associated with it.

That is one part of this bill. It will not cover conversion therapies purported by religious organisations that are not presenting a so-called health service. That needs to be dealt with in separate legislation and certainly the government is investigating that and how that may be implemented. This bill will end the practice with regard to people who purport to be health professionals or provide some kind of health advice. I, like the member for Scarborough, have never understood the idea of coming out—it never made sense to me. No-one else needs to come out. You are who you are and that is it—full stop. I have had friends in the past come out to me. I have been very privileged that they trusted me and did that, but I was also a bit perplexed because it makes no difference to how I feel about them. They are important to me as human beings and that is it—full stop. I feel that is no longer relevant. I have family members who I am sure are members of the LGBTIQ community, but I do not need any kind of declaration, just like I do not need a declaration that someone is straight. I do hope that that practice is in the past.

The purpose of the bill is essentially to provide a robust regulatory framework around people who, as identified by a number of members, are often at their most vulnerable and most desperate when they are unwell and have had a devastating diagnosis; sometimes conventional medicine is not helping or they have exhausted all those options or they have a deep distrust of conventional medicine, which certainly exists in the community.

The legislation will also provide those who are providing legitimate services or services that do improve people's quality of life some rigour around the service they provide. Naturopaths, for example, purporting to cure cancer reflects poorly on everyone in that profession. I would have to say the vast majority of naturopaths would not purport to cure cancer, but may be able to relieve some symptoms of some other ailments or illnesses. Another example is doulas. I am a very big supporter of doulas. It is important that women have advocacy and support, outside their immediate family, through childbirth and accessing options in childbirth, but with that comes responsibility. I think 99.9 per cent of doulas do the right thing, give good advice and provide options. Their role is to provide options. However, others promote themselves as more qualified than they are to provide home births or home-birthing support and get women and children into very, very dangerous situations. I am looking forward to this bill not only providing a more rigorous framework, but also lifting the confidence in some of those other areas of profession and allied health support. I think that is certainly what this bill will help to do.

We have seen a lot of complaints around cosmetic services that are not necessarily regulated by the Australian Health Practitioner Regulation Agency because they are not done by surgeons and they are not medical, but they are medically enhancing people and physically changing people. As there is an increase in demand for those services, we are seeing an increase in complaints. We are seeing young men and women who may be short of money going to certain providers and getting some really terrible results with nowhere to channel their complaints or issues. This

bill will help to regulate that. The vast majority of people working in these occupations, who are not necessarily registered under the national registration and accreditation scheme, certainly practice in a safe, ethical and competent manner; it is these powers that will allow the director of HADSCO to take action against those healthcare workers who do not. Sarah Cowie is the director of the Health and Disability Services Complaints Office, which deals with enormous amounts of complaints. I thank Sarah and her team in developing this bill and bringing it this far.

The opposition raised a number of questions that are all very relevant. I thank the opposition for its support of the bill. The member for Vasse outlined the functions of the bill and said that it most closely replicates Victoria, New South Wales and South Australia. They have all introduced legislation. It is important that we get this passed so that WA does not become the ideal operating ground for dodgy providers. It does not specify which health services provisions are captured. Although the various legislation around the states is uniform, they all have slight variations and that is one area within which they have variations. There is a list of examples, but really it is to be determined on a case-by-case basis by the investigator and the director, because these practices or professions pop up and evolve and new professions are created, so we need an act that is robust but flexible enough to accommodate future practices that may come up.

The services that will be covered come under professions like art therapists; aromatherapists; doulas, as I mentioned; cardiac scientists—I do not know what some of these words are, actually—clinical perfusionists; complementary and alternative medicine practitioners; dental assistants; dental technicians; dietitians; herbalists; homeopaths; hypnotherapists; lactation consultants; massage therapists, which was certainly mentioned by the member for Cockburn; medical scientists; music, dance and drama therapists; naturopaths; nutritionists; optical dispensers; pharmacy assistants; counsellors and psychotherapists; reflexologists; reiki and shiatsu practitioners; sleep technologists; speech pathologists and social workers. They will be captured, but we need flexibility to enable new areas of practice, if you like, to also be captured. The definition recommended by the Council of Australian Governments was not uniformly adopted by every single state; it was used as a starting point to be applied as appropriate.

The member for Cottesloe highlighted that the first port of call is dispute resolution, rather than going straight to any kind of litigation. Let us resolve those disputes by meeting and working through differences. Time-bound interim orders are also very important when we are dealing with people's livelihoods. People need a right of reply and natural justice, so those time-bound orders are important. I am also looking forward to a speedy promulgation of the regulations. Parliamentary Counsel's practice is not to draft regulations until the passing of the bill, as much as we would like it to start. We look forward to the speedy passage of this bill in the Legislative Council. I have not seen details of some of the allegations from Esther House, but some of them have been aired publicly. This bill could potentially deal with some of those issues around Esther House and, hopefully, the parliamentary inquiry will be able to investigate any other further potential gaps in those. That mostly answers those questions.

The definition of "health service" is in the Health and Disability Services (Complaints) Act. The advice is that HADSCO has been using that definition for decades in exercising its jurisdiction and it has been perfectly adequate to do that. To have a whole new definition would potentially create confusion and unnecessary issues.

The bill also covers services relating to voluntary assisted dying, which the COAG version did not, because not all states and territories have that. That is another reason this bill is important. It is important that we proceed with it because care navigators and, potentially, social workers are not regulated by the national registration and accreditation scheme and they have a role under voluntary assisted dying.

Debate interrupted, pursuant to standing orders.

[Continued on page 1817.]