HEALTH SERVICES AMENDMENT BILL 2021

Consideration in Detail

Resumed from an earlier stage of the sitting.

Clause 18: Section 35 amended —

Debate was interrupted after the clause had been partly considered.

Mr S.A. MILLMAN: The member for Vasse had asked a question about the amendment to replace "WA health system" with "state". I am advised that this clause will amend section 35(4) by replacing "WA health system" with "state" because of a concern that the use of "WA health system" would restrict health service providers from engaging in activity that would not benefit, or would be in competition with, the activities of a contracted health entity.

Ms L. METTAM: The question I had about that was whether the parliamentary secretary could give an example of an activity that would be allowed that would be a benefit to the state but would not necessarily benefit the WA health system. Have I made the right interpretation of that?

Mr S.A. MILLMAN: The member is right. One of the things that will be enabled by virtue of this amendment is, pertinently, health justice partnerships whereby legal support can be provided to patients in the health system. Although that might not be specifically beneficial to the health system, it will be beneficial to the state of WA. It will broaden the remit or the scope of activities that can be undertaken. It is a broader definition to make sure that we do not miss anything.

Clause put and passed.

Clause 19 put and passed.

Clause 20: Sections 36A to 36E inserted —

Ms L. METTAM: Proposed sections 36A to 36E are substantive. Can the parliamentary secretary explain the reasoning behind these new sections? Is there an issue or opportunity that prompted the insertion of these new sections?

Mr S.A. MILLMAN: Proposed sections 36A to 36E are where a significant part of the work of the legislation will be done. Proposed section 36A relates to joint agreements, proposed section 36B relates to the power to borrow, proposed section 36C relates to guarantees, proposed section 36D relates to the restricted power to enter into arrangements on behalf of other health service providers, and proposed section 36E relates to health service providers providing services to each other.

Part of what is sought to be achieved by the insertion of these new sections is to allow the Minister for Health to give the HSPs the power to deal with land and property that is the subject of a joint arrangement on behalf of the minister or the health ministerial body. For example, the terms of the joint arrangement may permit an HSP to grant or terminate leases or licences on behalf of the HMB or the minister. The health service provider will not require the approval of the minister or the HMB prior to granting the lease or licence. However, the extent of the power to deal with the property will be subject to the terms of the joint arrangement. Actions taken by the HSP under this proposed section will be taken to be done and be binding upon the minister and the HMB.

We will have a much greater degree of flexibility for health service providers to enter into those arrangements that are necessary to make the delivery of health services efficacious. Proposed section 36A will allow for joint arrangements. Proposed section 36B pertains to the power to borrow. I am advised that the inclusion of proposed section 36B was consequent upon a change to accounting standards that classified leases as borrowings. This provision was originally drafted bearing in mind that change to the accounting standards. I do not think that that remains germane. I think the changes have moved on. Notwithstanding that it might not be necessary for that particular reason, the HSPs have sought the flexibility to engage in the financial arrangements that this proposed section will give them the power to do. In that way, entering into those financial arrangements will not be beyond power, or ultra vires. The same goes for the guarantees. I suggest that proposed sections 36B and 36C should be read similarly. I will sit down and invite a question on proposed sections 36D and 36E, if I may, member for Vasse.

Ms L. METTAM: Can the parliamentary secretary provide some detail on what the joint arrangements in proposed section 36A might entail?

Mr S.A. MILLMAN: They mostly relate to leases and licences, so they deal with land. In effect, the powers that were previously retained by the health ministerial body or by the minister will be delegated down to the health service provider to deal with those issues.

Ms L. METTAM: I know that we want to get onto the guarantees, but with regard to the "power to borrow", will the health service provider require the approval or the endorsement of the minister before seeking the approval of the Treasurer?

Mr S.A. MILLMAN: Yes. A health service provider's power to borrow will be subject to the approval of the Treasurer except when the minister has, with the Treasurer's consent, exempted a transaction or class of transaction from the requirement to obtain the Treasurer's approval.

Ms L. METTAM: Will it be required to table this instrument of approval in Parliament?

Mr S.A. MILLMAN: I draw the member's attention to proposed section 36B(2). The instrument has to be gazetted.

Ms L. METTAM: Can the parliamentary secretary give me more detail on how this bill will deal with the issue of guarantees and the other areas in this substantive part of the bill, as he was explaining?

Mr S.A. MILLMAN: Proposed section 36C, "Guarantees", states —

> (1) The Treasurer, on the Minister's recommendation, may, in the name and on behalf of the State, guarantee the performance by the health service provider, in the State or elsewhere, of any financial obligation of the health service provider arising under section 36B.

This provides for the Treasurer to guarantee the performance by a health service provider of any financial obligation arising under this proposed section. Parties contracting with the health service provider will be able to have peace of mind when entering into those financial arrangements with the HSP. I also note that this proposed section is consistent with similar provisions in other legislation. I direct the member's attention to section 36 of the Western Australian Land Authority Act. Under this provision, the Treasurer will guarantee the actions of the HSP.

Clause put and passed.

Clause 21: Section 37 amended —

Ms L. METTAM: Under this clause, the health service provider may dispose of land with the minister's approval. This is already contained within existing legislation but the wording will be altered by this amendment. Is this a material amendment or has an issue prompted the requirement to change the act?

Mr S.A. MILLMAN: Thank you for the question, member. This is a worthwhile amendment. Section 37(3) of the act reads —

> A health service provider must have the Minister's written agreement before it disposes of health service land.

New section 37(3) states —

> A health service provider may only dispose of health service land if —
>
> (a) the health service provider has the Minister's written agreement to dispose of the land …

That is, in large part, a continuation of the operation of subsection (3) in the act, but the next proposed paragraph introduces a degree of flexibility —

> (b) the disposal is of a class of disposals that has been exempted from the requirement to obtain the Minister's written agreement by order made by the Minister and published in the *Gazette*.

If there is a threshold issue in which some HSPs are disposing of a high volume of low-value land, the minister may want to gazette that class of transaction and empower the HSPs to undertake those transactions without needing to seek approval from the minister. However, proposed section 37(4) will provide a fail-safe mechanism —

> The Minister may, by order published in the *Gazette*, revoke or amend an order made under subsection (3)(b).

That is high value, low volume.

Ms L. METTAM: Can the parliamentary secretary give an example of the some of the high-volume, low-value land options that might be captured by proposed section 37(3)(b)?

Mr S.A. MILLMAN: What an excellent question! Yes, I can. For example, the WA Country Health Service has over 500 leases that require the minister's approval under this provision. Many of these leases are short-term leases of less than six months that are entered into for the purposes of providing accommodation to remote staff members. For example, WACHS has approximately 650 properties that it leases from the private market and subleases to employees. As the member would appreciate, entering into these sublease arrangements to attract workers to our regional and remote areas without having to revert to the minister would be a useful administrative change.

Ms L. METTAM: I can see why that amendment has been made. What challenge in the past has created a cumbersome approach when subleasing the 650-odd properties?

Mr S.A. MILLMAN: The challenge posed is that each time we enter into one of these lease arrangements, it has to go to the minister or the director general for approval. This amendment will expedite that process.

Ms L. METTAM: How long does that process usually take? I can imagine it would be quite cumbersome.

Mr S.A. MILLMAN: It probably varies depending on the circumstances. I do not think we can give the member a time.

Clause put and passed.

Clauses 22 and 23 put and passed.

Clause 24: Section 46 amended —

Ms L. METTAM: Clause 24(2) proposes to delete section 46(3)(a) and (b) and insert new wording. Can the parliamentary secretary indicate the reason for these changes and the new detail in proposed paragraph (a)?

Mr S.A. MILLMAN: Did the member say proposed paragraph (a)?

Ms L. METTAM: Yes.

Mr S.A. MILLMAN: Excellent; thank you. The member is right. Current section 46(3)(a) states —

> the health services to be provided to the State by the health service provider;

That is picked up in proposed subsection (3)(a)(i). Something that the member would be interested in is proposed subsection (3)(a)(ii), which states —

> the teaching, training and research in support of the provision of health services …

That picks up the existing subsection (3)(b). What is incorporated in proposed subsection 3(a) that is not in the act, so what is being brought in, is —

> (iii) the capital works or maintenance works to be commissioned and delivered under the agreement …
>
> (iv) any clinical commissioning of facilities to be carried out under the agreement …

The capital works and maintenance referenced in proposed subparagraph (iii) and the clinical commissioning in proposed subparagraph (iv) are the matters that we discussed when we were considering proposed section 20A. The purpose of these amendments is to permit the service agreement to provide for the health service providers to provide services other than health services. These are not just health services; these are dealing with the land, the property and the clinical commissioning before the hospital comes to life.

Ms L. METTAM: I actually think the parliamentary secretary answered that very well.

The ACTING SPEAKER (Ms A.E. Kent): You were actually surprised there!

Ms L. METTAM: I will ask this question anyway. I appreciate that this is to address the consistency in the bill. I have touched on this before, but has there been any issue that required this amendment to be made? Can the parliamentary secretary indicate what has prompted it?

Mr S.A. MILLMAN: I think the best example is probably Perth Children's Hospital and the ability for the government to have a line of sight into how the capital works and maintenance are being carried out. This provision will make it absolutely clear that that is something that the government can have oversight of.

Clause put and passed.

Clause 25 put and passed.

Clause 26: Section 49 amended —

Ms L. METTAM: I note that the term of a service agreement will be extended from one year to three years. Can the parliamentary secretary explain the reason for this extension? I am assuming it is to provide efficiencies and certainty, but I am just wondering what the reason for the change is.

Mr S.A. MILLMAN: The member for Vasse is right. It is just to provide a bit of flexibility. It is consistent with the terms of service agreements in other jurisdictions such as Queensland. The amendment will allow the department CEO or the commission CEO to extend the term of a service agreement. It will make it three years, so the individual will not always be renegotiating the contracts or agreements. They can enter into them. There will still be the capacity to extend the agreement for a further 12 months at the end of the three years. This is just so that the individual does not have to constantly renegotiate the contracts and agreements.

Clause put and passed.

Clause 27 put and passed.

Clause 28: Sections 53A and 53B inserted —

Ms L. METTAM: Can the parliamentary secretary provide background on the requirement for these new sections? How is compensation determined and paid currently, in the absence of this provision?

Mr S.A. MILLMAN: When the member asks how the compensation is determined, does she mean how is compensation to the health service determined? Actually, I will provide a general answer, and then I will get the member to ask me a supplementary question, if that is okay.

The general answer is that people injured in motor vehicle accidents or who have work injuries that are subject to a workers' compensation claim can attend a health service and receive treatment for the injuries they have sustained. As a result of their motor vehicle accident insurance or workers' compensation insurance, the medical costs they have incurred should be covered by the wrongdoer—the tortfeasor—which is the other motor vehicle driver or the negligent employer, or what have you. The problem was that the state was picking up the burden of these costs. Contrary to the proper policy, the person who caused the accident or injury was not responsible for the cost of treating the person. This was identified when the previous government introduced this legislation. It set up a scheme in order to try to have those moneys that had been paid out of the public purse recovered from the wrongdoer—the tortfeasor. Once a motor vehicle accident claim or workers' compensation claim had been settled or determined in the appropriate forum, the health service provider was entitled, under the original Health Services Act, to recover that money from the insurer. That was the scheme.

It has not operated how we wanted it to, so we want to clarify it and make sure that we can recover the money. That policy imperative the former government landed upon, which is a longstanding policy imperative of tort law, is one that we want to see brought to effect; that is, if people are entitled to compensation and they have the cost of their medical treatment paid for by the insurer, that should not also land on the public purse—the people of Western Australia.

The member's question was: how is the compensation determined? The definition of "compensation" is actually adopted from a commonwealth act. The same thing applies with Medicare. If an individual puts through a whole bunch of general practitioner consults for their workers' compensation claim that have been charged to Medicare, those costs should be recoverable against the insurer rather than against Medicare. The Health and Other Services (Compensation) Act is a commonwealth act, and we have picked up the definition from that act and brought it into this bill. That act works, and Medicare recovers the money from the motor vehicle accident or workers' compensation claim. Those are two examples. It is not an exhaustive list, but just a couple of examples. In terms of how the liability to pay compensation is determined, that has to be determined in a legal process or via a settlement. I will leave it there.

Ms L. METTAM: As I understand it, the health service provider has had to be responsible for recovering the costs that it had paid out through the delivery of the health services. What is being addressed here is an ability to avoid that challenge of recovering those costs. How difficult has that been in the past? As the parliamentary secretary has pointed to, I can imagine that the challenge of recovering those costs must have been quite significant. How have health service providers undertaken that task up until the introduction of this bill?

Mr S.A. MILLMAN: How difficult is it? It is difficult. Under the current legislation the injured plaintiff receives his or her compensation payment, settlement or award of damages from the court or the tribunal. The health service provider then needs to go to the injured plaintiff and say, "This is how much you spent at Busselton Hospital; you need to pay us that money back." That creates all sorts of problems, particularly when people have been involved in significant workplace or motor vehicle accidents. This scheme is designed to make the payer the insurer, so they will have the capacity and inclination to pay in a way that the plaintiff —

Ms L. Mettam: So it will go straight to the payer?

Mr S.A. MILLMAN: Yes.

Ms L. METTAM: Does the parliamentary secretary have any indication of the proportion, over the last 12 months, of unpaid claims? I am trying to get an understanding of the size of this problem.

Mr S.A. MILLMAN: At the risk of quoting former US Secretary of Defense Donald Rumsfeld, that is an unknown unknown. I do not think that is something that we can get a measure of because we do not necessarily know whether a person who has been involved in a motor vehicle accident has a tortfeasor who is another party to the motor vehicle accident and therefore there is a mechanism giving rise to the compensation. When they arrive at the emergency department consequent upon having been involved in a motor vehicle accident, they are treated by the hospital as though they have been involved in a motor vehicle accident. If there were a way of saying, "This person was involved in a motor vehicle accident and there was a negligent party to that accident", we could quantify the figure that we are after, but otherwise I do not think we can quantify that figure.

Clause put and passed.

Clauses 29 and 30 put and passed.

Clause 31: Section 58 replaced —

Ms L. METTAM: I appreciate that this clause will replace the current section 58, which relied on regulations that did not achieve their intended purpose. Can the parliamentary secretary detail how proposed section 58 differs from the current section 58?

Mr S.A. MILLMAN: These provisions will give effect to the scheme that I was discussing earlier. They clearly identify the liability and obligation that will be created. The liability is created under proposed sections 57A and 57B, and the statutory power to make the regulations falls under proposed section 58. While we are on clause 31, I draw the member's attention to proposed section 57C. A health service provider may waive or refund the whole or any part of a compensable charge that is payable or has been paid under proposed sections 57A or 57B. Those circumstances might include hardship, but that is a particular requirement. A fail-safe mechanism is in place in case the situation is particularly sensitive, such as a quadriplegic being injured in a motor vehicle accident, and a particular burden is imposed on account of an HSP requiring that the money be recovered. The provisions will be exercised to waive that, so that sort of balance, if you like, is provided under proposed section 57C.

Ms L. METTAM: These proposed sections will also rely upon regulations. As I understand it, the regulations under the current legislation did not meet their intended purpose. How will the new regulations achieve the intended purpose of these proposed provisions?

Mr S.A. MILLMAN: There are two ways in which they will achieve the intended purpose: they will be clear and detailed. For example, under proposed section 58(2) we can see all the notifications required to be undertaken by the parties and all the requirements. We can see the specificity under proposed section 58(2)(a), (b) and (c). Proposed section 58(3) states —

> Regulations made under subsection (2)(a) may —
>
> (a) provide that an individual is not excused from complying with a requirement to give information …
>
> (b) require the information … to be given …

There is a reporting mechanism under which it will be incumbent upon the injured party to communicate clearly with the HSP. I think that the clarity of purpose of the scheme is provided for under proposed section 58, which will provide the head of power under which the regulations can be made.

Ms L. METTAM: Will resourcing be provided to review patient services to determine whether compensation can be recovered; and, if not, how will cases be considered retrospectively if the health service has been delivered but the patient subsequently claims compensation?

Mr S.A. MILLMAN: I will do what I can, member. There are already financial management and compliance teams in HSPs that are responsible for looking at costs and things like that. I am advised that it is not anticipated that this will require extra personnel and that part of the task of those teams will be to take up this role as well, which is what was anticipated when the legislation was passed in 2016. This will just give effect to that.

Ms L. METTAM: How will cases be considered retrospectively?

Mr S.A. MILLMAN: The legislation will not have retrospective operation for matters in which compensation has already been paid. If there is a case in which someone was injured in a motor vehicle accident in 2010 and they commenced proceedings in 2015, within the statute of limitations—or 2013, if the Limitation Act had changed—and they resolved their claim with a determination in their favour and have been paid their awarded damages by the court, all well and good. If a person injured in 2020 commenced proceedings for a workplace injury in 2022, incurred costs in a public hospital and won their case against the negligent employer and was paid an award of damages, notwithstanding that the injury was in 2020 before the commencement of the amended act, they will get paid their damages in 2024, and it will be open to pay the costs back in accordance with the provisions of this act.

Ms L. Mettam: Yes, to the HSP.

Mr S.A. MILLMAN: To the health service provider. That is right.

Clause put and passed.

Clauses 32 to 34 put and passed.

Clause 35: Section 66 replaced —

Ms L. METTAM: We touched on this new section earlier. What will be the trigger or the threshold for financial difficulty?

Mr S.A. MILLMAN: The trigger will be when the HSP is unable to meet its financial obligations when they fall due.

Ms L. METTAM: I guess that will be quite subjective or will there be a definition of financial obligations?

Mr S.A. MILLMAN: Does the member recall our discussion about the policy framework and the proposed amendments to section 26(2) of the Health Services Act 2016?

Ms L. Mettam: Yes.

Mr S.A. MILLMAN: The policy framework will set out objective criteria. It will not be subjective. The policy framework that the director general can issue under section 26 will have effect in this clause under proposed section 66. This will make sure that people do not jump the gun. They may be anxious about their financial situation, but the criteria set by the system manager will say, "If you are experiencing these difficulties, now is the time to get cracking."

Ms L. METTAM: This proposed section does not appear to indicate any action will be taken if a health service provider is in financial difficulty but fails to notify the department's chief executive officer. Is this covered by the regulations or is it just not seen as necessary?

Mr S.A. MILLMAN: The short answer is that it is not necessary. The HSP is a statutory authority and its job is to manage the finances.

Ms L. METTAM: I understand that the HSP's role is to manage the finances, but is there an obligation on it as a statutory authority to advise the CEO or the minister that it is in financial difficulty, or is that just done through reporting?

Mr S.A. MILLMAN: I cannot recall the clause off top of my head, but the member may remember our discussion earlier about board members and their duties. The bill will expand the duties of board members to make it clear that they have various obligations. One of the duties at common law and probably also under this act—I cannot remember—is to manage the finances. The board is statutorily bound to manage its finances and each of the directors of the board is under an obligation to make sure that the finances are in good order.

I am sorry; we have not discussed the board yet. We will get to boards! Let me rephrase my answer: most of the HSPs are governed by boards and the board members all have a duty as directors to discharge their obligations in accordance with statute and common law. One of those duties is the financial health of the organisation that the board members form.

Ms L. METTAM: Proposed section 66B(2)(b) provides that the minister must —

> initiate such action as is required to ensure that the health service provider is no longer in financial difficulty.

Can the parliamentary secretary outline the options other than providing funding that are open to the minister to ensure a health service provider is no longer in financial difficulty? I know we have touched on boards.

Mr S.A. MILLMAN: I will get an answer for the member, but I note that proposed section 66B(2)(b) has the same wording as existing section 66(4)(b) in the Health Services Act 2016; that is, the minister must —

> initiate such action as is required to ensure that the health service provider is able to satisfy the relevant financial obligation when it is due.

It is not the same, but it is similar to the new wording —

> initiate such action as is required to ensure that the health service provider is no longer in financial difficulty.

It picks up the existing provision. Therefore, whatever powers the minister currently has will also apply under the amended act.

Ms L. METTAM: Will the minister be required to notify Parliament of any action taken under this proposed section or will that be at the minister's discretion?

Mr S.A. MILLMAN: Each of the HSPs provides an annual report to Parliament. They will be required to notify lists in the annual report when provided to Parliament.

Ms L. METTAM: Just for clarification, are the HSPs obligated to report this in the annual report? Will that be covered?

Mr S.A. MILLMAN: They are obliged to report this in the annual reports.

Clause put and passed.

Clause 36 put and passed.

Mr S.A. MILLMAN: Acting Speaker, may I change advisers?

The ACTING SPEAKER (Ms A.E. Kent): You may.

Clause 37: Section 76A inserted —

Ms L. METTAM: Proposed section 76A deals with the board. What is a requirement of this new section given that a member's removal from a board for misconduct is covered under section 77 of the act?

Mr S.A. MILLMAN: I will make two comments on this. If members look at the existing section 77, they will see that it is contained under the provision relating to casual vacancies. It is not immediately apparent that removing board members from office stands in respect of the act at large, so we wanted to make sure that it was clear that removing board members from office related not only to casual vacancies; it is a more general power. We introduced

proposed section 76A, which comes under and follows logically, I would submit, part 8 division 2 relating to boards, and makes it clear that it has nothing to do with casual vacancies specifically but is about misconduct more generally. Proposed section 76A(1) gives us a definition of "misconduct" and proposed section 76A(2) gives us the basis upon which a minister can exercise their power. The definition of "misconduct" is very clear. It states —

> ***misconduct*** includes —
>
> (a) conduct that renders a member of a board unfit to hold office as a member even though the conduct does not relate to a duty of the office;
>
> and
>
> (b) a breach of duty of a board member under —

This is what I was erroneously talking about before —

> (i) section 79; or
>
> (ii) the *Statutory Corporations (Liability of Directors) Act 1996*; or

Any duties that they have at —

> (iii) common law or equity.

Proposed section 76A(2) makes it clear —

> The Minister may remove a member of a board from office on the grounds of —
>
> (a) neglect of duty; or

That is separate from misconduct, because proposed paragraph (b) states —

> misconduct or incompetence …

And proposed paragraph (c) states —

> mental or physical incapacity …

That moves misconduct into a separate section, clarifies what misconduct is and clarifies that the minister has the power to remove board members for misconduct. It spells it out in much greater detail and will make it much easier to deal with.

Ms L. METTAM: Apologies if this is defined somewhere, but what is the interpretation of "neglect of duty" in the context of this bill?

Mr S.A. MILLMAN: I am advised that the definition of "neglect of duty" is no different from what is meant under the current section 77(4)(a) of the Health Services Act. That term has its own meaning.

Clause put and passed.

Clauses 38 to 40 put and passed.

Clause 41: Section 79 amended —

Ms L. METTAM: Can the minister outline what prompted the addition of proposed section 79(3), and are there specific examples or does this provide more specificity to conflicts of interest?

Mr S.A. MILLMAN: I thank the member for Vasse. This is about providing clarity. This clause will amend section 79 to place a number of express obligations on board and committee members, some of which are additional obligations that are not covered by the general law obligations that are imposed on board members by the Statutory Corporations (Liability of Directors) Act or common law or equity. The amendments are intended to make sure that the board and committee members are aware of the duties they owe to the health service provider and the state, with particular emphasis on the management of personal interests. When a prospective board member is invited to participate as a board member of an HSP, they will be able to pick up the act and look at section 79(3) and see in clear and unambiguous terms exactly what their duties, obligations and responsibilities are. The new provisions, I would say, will create a high level of transparency and integrity in the personal interests held by board members by enshrining in legislation under proposed section 79(3)(b) that board members are required to notify their board of any personal interests they hold that conflict with the interests of the health service provider. Due to the nature of health service providers' operations, the significance of the services that are delivered to the public and the relative size of the budgets they manage, a higher level of transparency and accountability by the board of a board member's personal interests is required beyond that already provided for in section 80 of the act.

To conclude, section 80 follows on from what will be the amended section 79 and there will be no changes to section 80. Section 80 is the penalty provision that contains the penalties if board members are in breach. The penalties will remain as they are, but it is felt that because of the nature of the HSPs they are responsible for as board members, these clearly articulated duties should be included in the amended act.

Ms L. METTAM: Currently under section 79(2), a board member must put the public interest before the interests of the health service provider. Under proposed section 79(3)(a), a board member will be required to act in good faith and in the interests of the health service provider. Noting that proposed section 79(3)(a) is subject to sections 79(1) and (2) of the Health Services Act, how will board members balance the requirement to put the public interest before the interests of the health service provider but also act in the interests of the health service provider?

Mr S.A. MILLMAN: This is a hierarchy of interests and it also pertains to the importance of avoiding conflicts of personal interest. It is both proposed sections 79(3)(a) and (b). Personal conflicts of interest are dealt with in proposed paragraph (b) and proposed paragraph (a) deals with having a duty to the public interest and a duty to the health service provider. It is a hierarchy of interests.

Clause put and passed.

Clauses 42 to 99 put and passed.

Title put and passed.

[Leave granted to proceed forthwith to third reading.]

Third Reading

MR S.A. MILLMAN (Mount Lawley — Parliamentary Secretary) [4.59 pm]: I move —

That the bill be now read a third time.

MS L. METTAM (Vasse — Deputy Leader of the Liberal Party) [5.00 pm]: I rise to make some concluding remarks as part of the third reading debate on the Health Services Amendment Bill. From the outset, I thank the previous Minister for Health, the current parliamentary secretary for health for answering some of the outstanding questions we had on the bill, and the advisers who provided briefings to the opposition during not only the previous Parliament, but also the current Parliament. We have supported this bill. It is important to address some of the outstanding issues that have existed with the Health Services Act 2016 since it was first introduced.

The legislation will establish the director general of the Department of Health as the system manager for WA Health. It will effectively iron out some outstanding concerns by making consequential amendments to the Mental Health Act, the Motor Vehicle (Catastrophic Injuries) Act, the Queen Elizabeth II Medical Centre Act and the University Medical School, Teaching Hospitals, Act 1955. A range of areas will be rectified, including the WA health system's land management ownership issues. It will establish a more comprehensive and effective scheme for the recovery of fees and charges. It will clarify who the employing authority is and allow for health service providers to more effectively provide services to and receive services from one another. It will strengthen the duties of the board, and some questions were asked about that. Greater detail is given about the obligations of board members, which I think is very important. The progression of this bill is important. This legislation represents a better governance structure for Western Australia's health system with a clear framework of roles and responsibilities for health service providers across the state.

In my contribution to the second reading debate—at that stage in 2021—I raised concerns about the need for a governance review, as floated by the Australian Medical Association at that time, and the fact that the act has some review obligations. Since then, the new Minister for Health has undertaken a governance review of the act. Although I cannot talk on new material, there are some concerns about the outcome of that governance review. We certainly support the fact that the governance review was undertaken, but there are some outstanding concerns about what this means for mental health. These concerns include how mental health issues are now managed under the health system as it relates to the Mental Health Commission, the way it was announced and what it means for the mental health sector. As that was not part of my contribution to the second reading debate, I am unable to go into greater detail about it now, but it is important that this bill provides a greater level of accountability and transparency for the operations of health service providers.

Touching on some of the comments I made previously, going forward, pressure will continue to increase on hospitals, but we need to look at the health system outside of hospitals, including the delivery of care. It is vitally important that the recommendations of the sustainable health review are progressed. Preventing patients from going to hospital in the first place and ensuring that the patients who are in hospital are sick, as well as looking at other options for early intervention and support outside the walls of the hospital, are vitally important. One in five emergency presentations could have been supported in a primary care setting, as outlined in that review. Investment in preventive health is vitally important, as are the roles that our health service providers deliver not only in hospitals, but also through health care in our communities.

I will leave my comments there. Again, I thank the parliamentary secretary and the advisers for their answers during the consideration in detail process. I commend the bill to the house.

MR S.A. MILLMAN (Mount Lawley— Parliamentary Secretary) [5.07 pm] — in reply: I would like to commend the member for Vasse for her contribution to the third reading debate. I agree with a significant proportion of what she just said. The Health Services Act is relatively new. The original version was introduced only in 2016. The unanimous support from members of this chamber for the Health Services Amendment Bill speaks to the importance of these reforms. We have picked up a good structural reform and we have tailored and enhanced it. I think the changes we have debated today that are part of this bill are necessary changes to give effect to transparency, accountability and efficacy. I thank the advisers for their support and advice during the consideration in detail stage. I thank the member for Vasse for the questions she asked, which were germane to a number of the amendments we have put forward. I think those questions helped illuminate some of the interesting parts of the bill. With that, I commend both the former Minister for Health, the Deputy Premier, as well as the current Minister for Health for the work they have done in stewarding this legislation to this point.

I commend the bill to the house and I thank members for their support.

Question put and passed.

Bill read a third time and transmitted to the Council.