HEALTH PRACTITIONER REGULATION NATIONAL LAW (WA) BILL 2010
PHARMACY BILL 2010

Cognate Debate — Motion

On motion by **Hon Simon O'Brien (Minister for Transport)**, resolved —

> That leave be granted for the Health Practitioner Regulation National Law (WA) Bill 2010 and the Pharmacy Bill 2010 to be dealt with cognately.

Second Reading — Cognate Debate

Resumed from 20 May and 25 May respectively.

HON SUE ELLERY (South Metropolitan — Leader of the Opposition) [11.29 am]: I indicate the opposition's support for both pieces of legislation. The Health Practitioner Regulation National Law (WA) Bill 2010 gives effect to an agreement made through the Council of Australian Governments to create a single, national accreditation and registration scheme for certain health professionals. That agreement was driven by a desire for consistency, both for health professionals themselves, who are part of an increasingly mobile profession and who need consistent obligations as they move between jurisdictions, and of consumer protection regimes.

Australians are becoming more and more assertive as health consumers. We are better educated about our rights as health consumers and we are demanding more and more comfort that the regulatory regime will protect our interests as health consumers. Unfortunately, the media from time to time draws attention in spectacular fashion to cases that heighten our fears as consumers. Those fears are legitimate in light of two of the most recent cases—that of "Dr Death", or Dr Patel, in Queensland, and the coronial inquiry in Western Australia into the death of Penny Dingle. Those cases highlighted the need for us to be ever vigilant.

The legislation before us today is being implemented differently in Western Australia from the other jurisdictions across Australia. The other states are adopting the Queensland legislation. Here, we are being asked to take the Queensland provisions and incorporate them into our own legislation. If changes are made over time to the Queensland legislation, those changes will need to be brought to the Western Australian Parliament for consideration. However, once the other jurisdictions adopt the Queensland legislation, any changes that are subsequently made to that legislation in Queensland will be automatically adopted by them. The way to describe the WA model is as a corresponding model. The national laws will become a schedule to our primary legislation. That means that Western Australia will retain the power to control the elements that it picks up over time. As has been put from time to time by stakeholders, it is about not ceding power to the commonwealth or any other jurisdiction.

The national law bill will register 10 professions in Western Australia and deals with the financial arrangements for registration fees, which will increase. I am advised that a due diligence process was undertaken to ensure that every jurisdiction complied with an agreed formula to allocate respective costs. The bill will establish a state board as a form of committee that can be formed under the national board. Western Australian representation on the board was an issue for some stakeholders, but particularly the Australian Medical Association. The Western Australian government will be represented through its role on the ministerial council. In addition, two eminent Western Australian practitioners will sit on the senior officer boards, which will support the national boards. The State Administrative Tribunal will have two roles as a consequence of these changes. SAT will make determinations on serious matters and appeals. The local board, under a delegated power, will deal with registrations and hear the first level of complaints. WA has been guaranteed representation on each of the national boards, which I know was a concern of some stakeholders, but particularly the AMA.

The AMA and a group of clinical psychologists are two stakeholder groups that have identified some concerns with the legislation. I met with the AMA and I understand that negotiations occurred over the parliamentary break to progress some further amendments that had been in place prior to our rising. I will go to the most recent email I received from the AMA in a minute. The AMA's concerns were more generally about fees and why WA could not follow the New South Wales route of maintaining a separate, standalone system. The AMA maintains its concern that WA is giving up something that has worked well. I will be interested in the minister's comments on that.

I understand, from information provided to me, that clinical psychologists are somewhat divided on this legislation. One group of clinical psychologists is concerned about the specialist title provisions under the legislation. The current Western Australian clinical qualification is recognised in the United Kingdom and the United States. No other Australian state jurisdiction has a qualification that is as recognised as the Western

Australian qualification in those two jurisdictions, so this group is concerned that the specialist title provisions in the legislation will somewhat diminish the standing of Western Australian clinical psychologists. As I understand it, the formal professional body for clinical psychologists in Western Australia supports the legislation. Nevertheless, a group of Western Australian clinical psychologists remains unhappy about the legislation. I would welcome the minister's comments on the government's view of whether those concerns have been addressed in the legislation.

I will turn quickly to the most recent email I received from the AMA at the beginning of this week. I thank Peter Jennings and the AMA team for providing us with advice. The Labor Party had agreed to move an amendment to replace the language used in the bill of "appropriate quality" of standards with that of "best practice". The AMA's email advised that the government had accepted the AMA's view on this matter, and that amendments appear on the most recent supplementary notice paper to address this issue. The AMA advised that it had reached agreement with the government on three areas. The first was the use of the term "best practice" versus "appropriate quality". The second concerned the title of physician, as the AMA was concerned that other health professionals might seek to incorporate the term "physician" in their title. The third was the issue of treating doctors being excluded from some of the mandatory reporting provisions set out in the bill. The AMA appears to be of the view that, after discussion with the minister, the minister had agreed to make those amendments and had indicated that the minister's office would brief me on those amendments. I know that my colleague in the other place raised that matter with the minister earlier this week, but I have had no briefing. I am not complaining about that, but I ask that the Minister for Transport, either in his response to the second reading debate or during the committee stage, take the time to clearly spell out for me and the house exactly what has been negotiated between the AMA and the government on those three matters.

Hon Simon O'Brien: Right.

Hon SUE ELLERY: I am not fussed about when that is done, but I would like that response to be placed on the record.

I also note that the Standing Committee on Uniform Legislation and Statutes Review considered the legislation and has tabled report 52. In that report, the committee has also asked the government to provide an explanation to the house about various matters and I anticipate the government will do that. The committee has also made recommendations about some other matters.

I thank the committee members for having done that work. My reading of the state of play is that the negotiations between the stakeholders and the government have moved on somewhat since the report was tabled in the house and I would therefore appreciate the minister's advice on how those matters have been addressed. I know that Hon Linda Savage, in the absence of any other committee member, will speak to that report and present the committee's amendments to the house today. We will hear from her in due course.

I want to turn briefly, if I may, to the other bill being dealt with in cognate debate—that is, the Pharmacy Bill 2010. I am advised that this Pharmacy Bill is, in no small sense, a redraft of the 2006 bill. The work driving that bill was somewhat usurped by the Council of Australian Governments national process. The changes proposed in the Pharmacy Bill go to the regulation of the profession, which has been removed from the pharmacy legislation and placed within the national law—if I can use the shorthand. Therefore, the bill before us today regulates the commercial arrangements; that is, it regulates the business of pharmacies as opposed to the profession of pharmacists. It comes about as a result of the current act being repealed as part of the provisions of the national law bill. These bills are being debated cognately because the first bill repeals and the second incorporates those matters relating to professional registration.

The structure will be the same in the sense that the bill refers to a registration board, which will be, by its nature, the same as the current council, albeit of a smaller size, and will include consumer representation, which is a very good thing. Its members will be appointed by the government rather than being elected by the profession.

Part 5 of the bill goes to the question of changes in ownership. Currently, a pharmacy business may be carried on by a pharmacist, or a company or friendly society that at the time of commencement of the 1964 act owned a pharmacy. The bill expands the ownership provisions such that a pharmacist may own a pharmacy business through a company or a partnership, but only if the pharmacist has the controlling interest. Also, new friendly societies may own pharmacies. The number of pharmacy businesses that can be owned by a pharmacist has been increased from two to four, and that is consistent with changes elsewhere in Australia. However, it is still the case that a pharmacist will be required to oversee personally the running of the pharmacy. There are some new offences in respect of false information and registration of ownership, which is something that pharmacists themselves hold very dear. They regularly lobby government to ensure that pharmacists remain in control of the business. It is an important business. If we think about what it is pharmacists do, we want to make sure that the selling of prescribed drugs is done by a professional who is beholden to professional standards of care and not

just beholden to commercial interests; that is, to make a profit. There are certain exemptions, which I do not need to go into now, to protect the existing arrangements for friendly societies.

With those comments, I indicate that the opposition will support the Pharmacy Bill. As a consequence of the changes to and the separation of the professional registration regime from the commercial business operational arrangements, it makes sense for the professional registration arrangements to be in the legislation that governs the other professions also covered in the health national law bill.

Once again, I indicate that the opposition will support the legislation. I will be interested to hear about the developments that have occurred, in particular between the Australian Medical Association and the government, since the house rose in July. I am also interested to hear the minister's explanation of why the government maintains that this legislation will not at all diminish the psychology profession and why the representational rights in respect of national registration and accreditation will add to and not diminish consumer protection. Although I agree with the government, I think this needs to be put on the public record to reassure people using the services of clinical psychologists

I will conclude my remarks with those comments, except to say that I look forward to learning more about how things have progressed over the course of the recent break.

HON GIZ WATSON (North Metropolitan) [11.46 am]: The Greens (WA) will support the Health Practitioner Regulation National Law (WA) Bill 2010, albeit with some reservations and some proposed amendments on the notice paper. Hopefully, those amendments will receive support and interestingly enough they touch on some of the issues that Hon Sue Ellery, the Leader of the Opposition, has raised, but I will get to those in a minute.

The health practitioners national law bill implements in Western Australia a national law relating to health practitioner regulation. It sets out the regulatory framework for a new national registration and accreditation scheme for health professionals, which was agreed to by Council of Australian Governments in 2008. It has taken a while to get through to us!

That national law provides for the registration at a national level of 10 health professions—namely, chiropractic, dentistry, medicine, nursing and midwifery, optometry, osteopathy, pharmacy, physiotherapy, podiatry and psychology. I understand that in 2012 four more professions will be added to the national scheme. I think that is a good approach and it is one that we have supported through the Parliament over the past decade or so. These new professions include Chinese medicine, occupational therapy, and Aboriginal and Torres Strait Islander health practice. The guiding principle of the national registration and accreditation scheme is that it operates in a transparent, accountable, efficient, effective and fair way. The fees to be paid under the scheme are to be reasonable, having regard to the efficient and effective operation of the scheme. Restrictions on the practice of a health profession are to be imposed only if it is necessary to ensure health services are provided safely and are of an appropriate quality. Under the national law, health practitioners will pay a single registration fee that will entitle them to work across the country without being required to meet additional criteria or pay additional fees. There will be nationally uniform processes and criteria for registering practitioners and accrediting educational programs. There will be a system for mandatory reporting of practitioners who may be placing the public at risk of harm due to the manner in which they are practising their profession.

The Greens support the sentiment behind creating a national registration scheme, although we have a number of questions and will raise a number of concerns about specific aspects of the bill. We are concerned that—as I am sure the general community is—in making such major changes, we are not lowering health standards by moving to a lower common denominator, rather than maintaining the very good scheme that we have had in place in Western Australia. I think that is particularly true of psychiatry, and my colleague Hon Alison Xamon will speak to that area of the bill specifically. It has been subject to quite a lot of debate within the Greens as to whether we could support the bill, given the concerns that have been raised by the psychiatric sector. On balance we decided that the bill should be supported, but that is not without severe reservations. In fact, we looked to see whether there was some way of opposing a portion of the bill to make that very clear but it seems that on a technical level it is quite hard to simply pull out a portion of the bill that deals specifically with psychiatry. However, I will leave the rest of the comments about that aspect to my colleague.

We share the Australian Medical Association's concerns about the use of the terminology "appropriate quality" instead of "best practice" in the bill. However, I noted with interest that Hon Sue Ellery seems to have some more up-to-date information than I do. Members will probably be aware that we now have supplementary notice paper 4 for this bill in which I have an amendment standing in my name to use the term "best practice". If the government is going to move an amendment like that, it is interesting because it is not yet on the supplementary notice paper.

Hon Sue Ellery: I think it is.

Hon GIZ WATSON: Is it?

Hon Sue Ellery: It is on the first page of the —

Hon GIZ WATSON: Thank you, yes; the government amendment is in a different part of the bill from what I propose. I look forward to that debate when we get to it. If it is the government's intention to move such an amendment, that is something that we clearly are of a mind to do. If there is one comment that I have about the briefings on this bill, it is that I was not convinced by the counterarguments that it was not preferable to use the words "best practice standards" in the guiding principles; therefore, I am pleased if we are moving to change that. I will not continue on that point because I think that we will deal with that in more detail when we get to the specific clauses. Suffice to say that our research indicated that the term "best practice" is used in many comparable pieces of legislation in Western Australia, so it is not as though it is an unknown term. At a briefing it was suggested that the term "best practice" was not a legal term, so we undertook to refute that. I will go through that when we get to the relevant clause.

Our next concern is about spent convictions. Patient safety is obviously paramount at all times and I commend the government for its intention to put that up-front in the bill. A person who has a conviction that is more than 10 years old can apply to have it declared spent, with the exception of a conviction that resulted in a sentence of life imprisonment. In WA, spent convictions come under the Spent Convictions Act 1988. Convictions for an offence against the law of the commonwealth can be declared spent convictions under the commonwealth Crimes Act 1914. In WA, the process to get a conviction declared spent differs depending on the penalty received for the offence. A serious conviction has a penalty of more than one year's imprisonment or a fine of $15 000 or more. A lesser conviction has a penalty of imprisonment of one year or less or a fine of less than $15 000. A person applying for registration as a doctor should not be discriminated against for having a spent conviction. Section 22 of the Spent Convictions Act 1988, which deals with discrimination by authorities that confer qualifications, states —

> It is unlawful for an authority that is empowered to confer, renew, extend, revoke or withdraw an authorisation or qualification that is needed for or facilitates the practice of a profession, the carrying on of a trade or the engaging in of an occupation to discriminate against a person on the ground of a spent conviction of the person —
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> (a) by refusing or failing to confer, renew or extend the authorisation or qualification;
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> (b) in the terms or conditions on which it is prepared to confer the authorisation or qualification or to renew or extend the authorisation or qualification; or
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> (c) by revoking or withdrawing the authorisation or qualification or varying the terms or conditions upon which it is held.

We want to ensure that no person is discriminated against because of a spent conviction. Therefore, we will move an amendment to part 7 of the schedule of the Health Practitioner Regulation National Law (WA) Bill to ensure that the Spent Convictions Act 1988 applies to decisions of the national board. As I say, I understand that the approach taken in this bill has what we would describe as an abundance of caution about spent convictions. However, we argue that the Spent Convictions Act should prevail, which is why we will pursue that amendment.

My next concern is to some extent a minor one that came up when I went through the bill, but I think that it is worth bringing up and I hope that my amendment will be supported by all sides of politics. Proposed section 140 of the schedule defines the "notifiable conduct" of a health practitioner and uses the words "while intoxicated by alcohol or drugs". This is an ongoing issue for me because alcohol is in fact a drug, so it really should properly read "while intoxicated by alcohol or other drugs". It is a point that I have made in debating other legislation and it is a point that I think is worth making in that we tend to put alcohol in a different category. In general parlance the term "drugs" is automatically assumed to be illicit drugs. Therefore, when we use the term "alcohol or drugs" it creates a dichotomy that does not exist. As we know, the highest cost in our community is from the consequences of excessive use of alcohol as a drug.

Hon Simon O'Brien: Which clause is it that you are concerned about?

Hon GIZ WATSON: Proposed section 140(a) of the schedule. Therefore, I propose a simple one-word amendment—that is, to simply add the word "other" before the word "drugs". I think that in health practitioner circles it is well understood that it would not cause any problems in the legislation and would more accurately reflect that alcohol is a very serious drug and should be recognised as such. The term "alcohol or drugs" infers that alcohol is not a drug.

Our next issue concerns the mandatory notification of notifiable conduct. I realise that this aspect of the legislation has received quite some attention, as it should. It is a very serious matter. The bill provides for the mandatory reporting of practitioners who place the public at risk of harm due to the manner in which they practise their profession, including practising while intoxicated or affected by other drugs, practising in a manner that represents a substantial departure from accepted professional practice, or engaging in sexual misconduct in the course of their practice. They are all things that the Greens want addressed. However, we have a fundamental caution with regards to any mandatory provisions within legislation, particularly mandatory reporting. Our experience in the past has demonstrated the downsides of mandatory reporting, mandatory detention, mandatory sentencing, mandatory internet filters, and a few other mandatory things that I could probably think of. The mandatory impoundment of hoons' cars seems to have caused the Parliament and people with Lamborghinis a fair amount of grief! Hence, when we see a mandatory-something provision in legislation, we take a close look at it. Mandatory provisions take away the opportunity for wisdom to prevail and for the individual circumstances of each matter to be weighed up. We want a penalty that fits the offence and we want considered decisions to be made after all circumstances have been taken into account. We want medical practitioners to be able to find help when they need it. This key matter was put very eloquently by the Australian Medical Association when it talked about the very difficult circumstances of doctors who might be aware that they need to take some medical advice or counselling for perhaps, say, alcohol use or mental health issues, and that they need to be able to find that help and get it as soon as possible. Mandatory reporting might well prevent health practitioners from seeking help, which would put the public further at risk and result in the opposite of what this bill seeks to achieve.

I want to quote from an article that illustrates this point entitled, "Mandatory reporting blamed for suicide". It was published on 3 July 2009 in the *Medical Observer*. It states —

> THE tragic suicide of a doctor too fearful to seek help from colleagues has renewed serious concerns about the unintended consequences of mandatory reporting laws.
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> The doctor took his own life in December last year, and *Medical Observer* has learned that within his suicide note, he specifically blamed mandatory reporting laws as preventing him from turning to colleagues for support or advice.
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> Currently, legislation obliging doctors to report their colleagues for professional misconduct is only in force in NSW. But the draft Health Practitioner Regulation National Law proposes to roll this out nationally from July next year.
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> The new laws—which are part of the planned national registration and accreditation scheme—will force health practitioners to report to authorities any colleague they suspect of practising under the influence of drugs or alcohol, engaging in sexual misconduct with a patient, or practising in a way that constitutes a departure from accepted professional standards.
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> Avant legal manager Helen Turnbull said the tragic suicide highlighted how such legislation could work against doctors and prevent them from seeking much-needed help.
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> "It is also incredibly disappointing that doctors married to other doctors will be forced to report [on their spouses]," she said.
>
> Only practitioners who are working in their capacity as medical advisers for medical defence organisations will be exempt from mandatory reporting. However, doctors are now arguing that similar exemptions should be extended to doctors who staff health advisory lines.

The article continues, but I think that is an example of one of the potential consequences of mandatory reporting in this area. I have been persuaded by that argument. The Greens (WA) have significant concerns about public health and therefore in some cases support mandatory reporting; however, there are two issues of special concern to us in respect of the reporting of notifiable conduct. One is the involvement of spouses of health practitioners who are also health practitioners. Interestingly, it is not all that unusual for medical doctors to marry other doctors. The second issue is reporting by health practitioners who have been consulted by a health practitioner with an impairment for medicinal purposes. The Greens (WA) argue that it should not be mandatory for people falling into these two groups to report the impairment. There is a system already in place within the profession that is not mandatory. Doctors are well aware of this issue and I am not convinced that it has been demonstrated that there is a big problem in this area; perhaps if such evidence had been put before the house, I might have a different view, but I will be moving an amendment on this issue to seek those exemptions.

During the briefing I received on this bill, the department provided the information that spouses can currently be compelled to give evidence under the Western Australian Evidence Act 1906. It is interesting to note that the duty of a spouse to give evidence was examined by the Law Reform Commission of WA, and the Western

Australian Acts Amendment (Evidence) Act 1991 implemented the commission's recommendations. In the 1999 "Review of the Criminal and Civil Justice System in Western Australia", the commission recommended that the Western Australian Evidence Act 1906 be redrafted to conform with the commonwealth Evidence Act 1995, while retaining certain advantages of the Western Australian legislation. Discussion on how such legislative reform might affect the question of competence and compellability of spouses in criminal proceedings may be found in the eighteenth report of the Standing Committee on Uniform Legislation and Intergovernmental Agreements, "Evidence Law", from 12 November 1996, paragraphs 5.1 and 5.2.

Sections 7 and 9 of the Evidence Act 1906 deal with spouses giving evidence in civil and criminal cases. They state —

> **7. Parties to civil proceedings and spouses and ex-spouses of parties**
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> In any civil proceeding the parties thereto and the persons on whose behalf such proceeding is brought or defended, and the wives, former wives, husbands and former husbands of such parties or persons respectively, shall, subject to the provisions of this Act, be competent and compellable to give evidence on behalf of either or any of the parties to such proceeding.

Section 9 states —

> **9. Spouses and ex-spouses of accused persons in criminal cases**
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> (1) In any criminal proceeding (and at every stage of the proceeding), the wife or husband of an accused shall, subject to this Act, be —
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> (a) competent to give evidence on behalf of the prosecution, the accused or any person being tried jointly with the accused;
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> (b) compellable to give evidence on behalf of the accused or any person being tried jointly with the accused; and
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> (c) compellable to give evidence on behalf of the prosecution against the accused or any person being tried jointly with the accused if —
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> (i) the accused is charged with an offence under a provision mentioned in the Second Schedule or under a repealed Code section;
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> (ii) the accused is charged with attempting or conspiring to commit, or with inciting the commission of, an offence under a provision mentioned in the Second Schedule or under a repealed Code section;
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> (iii) the accused is charged on the complaint of the wife or husband with an offence committed with respect to the property of the wife or husband; or
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> (iv) the wife or husband is compelled, under another enactment, to give that evidence.
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> (2) In any criminal proceeding (and at every stage of the proceeding), a former wife or former husband of an accused shall, subject to this Act, be competent and compellable to give evidence on behalf of the prosecution, the accused or any person being tried jointly with the accused.

As any proceeding under the Health Practitioner Regulation National Law (WA) Bill 2010 would be a civil proceeding, spouses would be compellable to give evidence. However, we are satisfied with the limited application of the act. A private chat between a health practitioner and his or her health practitioner spouse would not be sufficient to trigger mandatory reporting, as the health practitioner would have to become aware of the impairment in the course of practising. Confidential discussions between spouses would not fulfil the criteria and any information gained would not be subject to mandatory reporting.

In respect of health practitioners providing health services to colleagues, for the health professions to stay healthy, and for the safety of all patients, we obviously need to ensure that they address their health concerns as soon as possible. If a health practitioner is concerned about his or her own health and delays seeking assistance for fear of being reported, it would potentially pose even greater risks to the health and safety of patients.

I turn now to the cost implications of the bill. In common with our colleagues in New South Wales, when similar legislation passed through that Parliament, the Greens (WA) are concerned that there has not been a regulatory

impact statement or costing associated with the bill; nor has there been any mention of the processes by which outcomes will be measured. We hope that the scheme will be good for the health professions and consumers, but we cannot see any benchmark to measure this goal to find out whether it will actually be reached. There is a significant amount of trust expected of the professions and the community in respect of this bill. We recognise the amount of consultation that has gone into the drafting of the scheme at a federal and state level, and we realise that it has taken a long time to reach this point. It certainly is an area that needed addressing and it is an area of concern. The bill is not without its faults, but we acknowledge that it is an advance and we will support it.

We also have some other minor concerns. In respect of the regulation-making aspect of this bill, the regulations made under the act will no longer be published in the *Government Gazette*. Although we recognise that this measure has a practical application, we are concerned that it is a worrying trend, particularly in an area as important as this. Health professionals in Western Australia might miss changes to regulations that will impact on the profession here. When I asked how health professionals in Western Australia would know that the changes had occurred, the answer was that they could subscribe to the Victorian *Government Gazette*. I hope that someone is going to tell them they need to do that because that is a very unusual approach. It is not the usual legislative approach in Western Australia.

The next issue is that decisions by the national board will not be disallowable. Current regulations under the Medical Practitioners Act 2008, such as the setting of fees, are disallowable. Section 42 of the Interpretation Act 1994 gives Parliament the ultimate say about how the law should be implemented in WA. Disallowance motions will no longer be possible under this national approach.

I would now like to make a couple of comments on points that were raised in the report of the Standing Committee on Uniform Legislation and Statutes Review. I am sure they will be covered in more detail, but I would like to highlight a couple of them. Firstly, there is no legislative guarantee of WA's participation in the national body; that is, WA is not guaranteed a seat on the advisory council. I think that is a fault with the bill.

Secondly, the assets and liabilities of existing state boards are to be transferred to the national board. The boards are clearly a top-down approach and the ministerial council will decide who will be on the boards. There is also uncertainty about the status of the state boards. There is no legislative requirement that state boards be established, although this can occur. Registration fees will not be established by regulation. Currently, practitioners' registration fees are established by regulation, which allows for parliamentary scrutiny, but this will not be possible under the new scheme.

I refer now to pharmacists. This Pharmacy Bill repeals the Pharmacy Act 1964. In its place will be an act that deals with the registration of pharmacists and will establish the Pharmacy Registration Board of Western Australia to replace the Pharmacy Council and take over its function of regulating pharmacy premises and the ownership of pharmacy businesses. I am aware that this bill has been on the notice paper for a long time. In fact, I seem to remember that we dealt with a similar bill in the previous Parliament in, I think, 2006. That bill was introduced by the previous Labor government but was never debated in the Legislative Council. The then opposition, the Liberal Party, and the Greens were concerned about a provision in that bill that effectively permitted private hospitals to own and operate their own pharmacies. That was not supported by community pharmacists operating out of private hospitals. That was the only bone of contention on that bill. From memory, it languished on the notice paper because the numbers in the house were not there to support it.

This bill is similar to the 2006 precursor, except all parts concerning the registration of pharmacists will be excised because this will now fall under the Health Practitioner Regulation National Law (WA) Bill 2010, the one we have been discussing. This new bill will also address the Greens' previous concerns about excising all parts we had sought to be deleted from the bill in 2006. I am pleased to see that the reasons for delaying the 2006 bill have ultimately achieved the result we wanted, albeit several years later. Despite the previous general agreement on the 2006 bill, on closer inspection—the Greens supported the 2006 bill and fundamentally support this bill—we note that a number of concerns have been raised by the Standing Committee on Uniform Legislation and Statutes Review, so I will touch on them. The key issues include ownership of pharmacies. The stated intention of this legislation is to expand the range of people who may own or have an interest in a pharmacy business. Clause 54 is the relevant clause and provides that only the following can own or have proprietary interest in a pharmacy business: a pharmacist; a partnership in which every partner is either a pharmacist or close family member of a pharmacist; a pharmacist controlled company; a friendly society; or the preserved company, for example, St John of God Health Care.

Clause 55 limits the number of pharmacies each of those may own or have a proprietary interest in at the same time. However, the committee's interpretation of the current law is that there is no requirement that a pharmacy business be owned by a pharmacist. It is sufficient for a company to carry on the business provided a pharmacist supervises. The Council of Australian Governments supports retention of the current restrictions but not the

introduction of new restrictions, hence recommendation 1 of the committee report seeks an explanation on how the bill expands the categories of possible owners of pharmacies. No amendment is indicated in the committee report at this stage. We will be very interested to hear the explanation on that. As I understand it, if the Pharmacy Guild of Australia and the Pharmaceutical Council of Western Australia are happy with the bill as it stands, we will not pursue an amendment.

The definition of "proprietary interest" in clause 3 is also worth mentioning. As noted above, clauses 54 and 55 specify who can have a proprietary interest in a pharmacy business, and proprietary interest is defined in clause 3. In 2000, the final report of the National Competition Policy Review of Pharmacy, the Wilkinson review, made recommendations about proprietary interest. The recommendations are set out in full in the committee's report. The aim is to exclude non-pharmacists from pharmacy service but not from other aspects of pharmacy business such as banking, general retail, cosmetics et cetera. It is also to ensure third parties such as employers who may not be qualified pharmacists cannot give to pharmacists directions that unduly or improperly interfere with pharmacy services. The COAG working group commentary agreed with those recommendations. The standing committee's view is that the bill's definition of "proprietary interest" is inconsistent with this. Again, recommendations 2 and 3 seek further information about the rationale for the bill's definition and how its effect compares with that in other jurisdictions.

I will listen with interest to the government's response to the committee's recommendations. The commencement date of this bill, in clause 77, is specified by reference to a particular clause in the Health Practitioner Regulation National Law (WA) Bill 2010. That bill has been renumbered so the committee seeks consequential amendments to this bill to ensure the numbering is correct. That seems to be a minor and uncontroversial proposal. Clearly, we will support the committee's recommendations in this regard.

The next matter concerns the independence of the board from the minister in clauses 11, 28 and 29. Clause 11 permits the minister to give directions to the board regarding either performance of its general functions or in relation to a particular matter but not particular persons or applications or proceedings, provided the minister first consults the board, and afterwards the text of the direction is tabled in Parliament and included in the board's annual report. Interestingly, the explanatory memorandum does not say what the government has in mind here. Clause 28 permits the minister to deal with a matter if the board cannot achieve a quorum with two, as a result of a member or members being disqualified from voting due to a material personal interest in the matter being considered.

Clause 29 permits the minister to declare in writing that either clause 26—the disqualification of a member of the board from voting as a result of a material interest—or clause 28 does not apply either generally or for the purpose of dealing with particular resolutions, provided the minister tables a copy of it in Parliament within 14 sitting days. The standing committee's recommendation 5 seeks information about the purpose of and necessity for these clauses and their effect on the board's independence from the minister. Again, we will follow with interest the government's response to this.

With regard to the conditions on the registration of premises as a pharmacy, which is dealt with in clauses 47 and 48, clause 47 permits the board to impose reasonable conditions on registration. Under the current act, conditions can be imposed only as prescribed. The committee's recommendation 6 asks why there has been a shift from conditions being set by regulations to conditions being set by the board. Clause 48 permits the board to grant an application even if minimum standards are not met, provided that the board is satisfied that this is in the public interest, and conditions have be imposed under clause 47. The committee's recommendation 7 asks what the purpose of this is and what would constitute public interest. Interestingly enough, no-one objected to this provision in the original bill in 2006, and both the Pharmacy Guild of Australia and the Pharmaceutical Council of Western Australia are happy. The current regulations provide that when in any case an application is made for registration of a pharmacy and circumstances exist that render it impracticable to comply immediately with the requirements of regulation 56 or, in the opinion of the council, it is not in the public interest to require such compliance, the council may register the pharmacy subject to such conditions as it may determine. Hence, there seems to be little change in practice, and, for that reason, I would need to be persuaded to support an amendment in this regard.

There is a further impact relating to monitoring and enforcement. The committee report notes that although the bill permits conditions on registration to be imposed under clause 47, there is no power to inspect the premises to ensure that those conditions are met, nor is there power to cancel registration if they are not. This is a flow-on effect of the change from conditions on registration being imposed by regulations to their being imposed by the board, as clauses 44 and 45 deal with entry, inspection and duration of registration but only in respect of prescribed requirements. Currently, the act provides a detailed regime regarding investigation, entry and inspection. The 2006 bill had monitoring and enforcement powers in the provision to do with managing the

registration of pharmacists, but this has now been excised. Recommendations 8 and 9 request an explanation for the lack of such a provision. Again, we will be keen to hear the government's response in that regard.

In terms of the prohibition on the sale of prescribed goods, which is dealt with in clause 62 and by recommendation 10 in the committee report, clause 62(2)(b) permits regulations to be made prohibiting or regulating the sale or supply of prescribed goods and services by a pharmacy in association with the practice of pharmacy. The committee seeks confirmation via recommendation 10 that this does not include non-pharmaceutical goods and services. There is no need for the same restriction on those goods and services as there is on pharmaceutical drugs. We support the committee's recommendation in that regard.

With regard to the removal of the presumption of innocence, clause 71 is in a format that is familiar after last year's debate in this place on the Major Events (Aerial Advertising) Bill. The Greens had something to say about the words in that bill. Just as in clause 16 of that bill, clause 71 of the Pharmacy Bill provides that when a body corporate has committed an offence, every person who was an officer at the time will be deemed to have also committed the offence. Rather than the prosecution having to prove that the officer was involved in or at least knew of the breach, it is for the defence to prove that the officer did not consent to or connive in the offence and, in addition, did everything that he or she reasonably could do to prevent it. A body corporate can be found to have committed an offence in the course of criminal proceedings not against it but against one of its officers. At that time, we objected strongly on the basis that our laws have long provided that a person is innocent until proven guilty and that this is an extremely valuable human right that should attract parliamentary protection, not erosion. Section 7 of the Criminal Code, which deems a person guilty of an offence committed by someone else, applies only when the person was actively involved—for example, aiding, counselling or procuring the person who committed the offence or doing something or omitting to do something for the purpose of enabling or aiding the person who committed the offence. That section requires the prosecution to prove the person's active involvement; it is not that the defence has the obligation to prove innocence.

In September 2009 we moved amendments to the Major Events (Aerial Advertising) Bill to address this issue. The amendments were not supported at that time by either the Labor or Liberal Parties. It is pleasing to see that at least members of the standing committee recognise that such clauses are inappropriate and erode the presumption of innocence, so good on the standing committee! Recommendations 11 and 12 request an explanation regarding both issues, and recommendation 13 proposes amendments dealing with the second issue but dealing only partly with the first. The justification for not proposing amendments wholly addressing the first issue as well can be found in paragraph 8.28 of the committee's report; that is, such provisions are increasingly becoming part of legislation and those clauses do not go as far in eroding the presumption of innocence as did the other clauses.

As much as we support the amendment, we also seek the support of the committee's members for a further amendment wholly addressing the first issue. I have suggested wording for an amendment and I will address that during the committee stage. The wording is the same as that in the amendment we proposed to the Major Events (Aerial Advertising) Bill, and it is based on equivalent legislation in Victoria and New South Wales. If the committee's amendment is passed, the second suggested amendment will become unnecessary. I will deal with this matter in more detail during debate on clause 71 of the bill. I just flag that issue, and it is a reminder for me to get that on the supplementary notice paper as soon as possible. With those comments, the Greens (WA) will support both these bills, but will seek to move some amendments during the committee stage.

HON LIZ BEHJAT (North Metropolitan) [12.26 pm]: I rise to put on the record some thoughts I have on the Health Practitioner Regulation National Law (WA) Bill 2010 and the Pharmacy Bill 2010. Obviously, I support the legislation, but, as a member of the Standing Committee on Uniform Legislation and Statutes Review that tabled report 52, I want to make some comments. Coming into this place as a relatively new member of Parliament, and particularly wanting to be a member of the Legislative Council of Western Australia, I am a very proud Western Australian member of Parliament. Any piece of legislation that I see come into this chamber that does anything to abrogate the rights of Western Australia as a sovereign state rings alarm bells for me. As a member of the committee, I was horrified to learn that, under proposed section 245(1) of the national legislation, the regulation-making power will lie with the ministerial council. I do not really have a problem with that in itself, as long as the ministerial council has a requirement to inform every Parliament of Australia affected by the national legislation of the regulations it has made. However, this legislation does not do that; it allows for any regulations made by the ministerial council to be published in the Victorian *Government Gazette* and tabled in the Victorian Parliament, with no reference to any other Parliament in Australia on regulations that have been made that will affect people in Western Australia. During the course of the standing committee's hearings, we brought this matter to the attention of the officers from the Department of Health and they confirmed for us that that was the way it was going to work: the regulations would be tabled in Victoria and somehow or another the

message would eventually find its way across the Nullarbor, we would know what had happened, and we would put the regulations in place. When we brought that to the attention of the Department of Health and asked how the Western Australian Parliament would find out about this, the response given by the department at the time, as quoted in report 52 of the Standing Committee on Uniform Legislation and Statutes Review, was —

> *Parliament can ensure it is notified* [of regulations] *by subscribing to an electronic alert subscription service provided by the Victoria Government Gazette.*

I do not know about any other members in this house, but I found that answer completely ludicrous. How on earth does a Parliament subscribe to an electronic media alert service? It is a complete nonsense. To even provide such a response to the committee showed that the department was disregarding the authority of this Parliament. The department then went on to suggest that we should be safe in the knowledge that the Minister for Health is a member of the ministerial council and, therefore, will be aware of the regulations that will be made. We therefore need to rely on the Minister for Health to bring that information back to the Western Australian Parliament. I have no doubt that our current Minister for Health, for whom I have the highest regard, would probably do that. However, in among all the other things he is doing in managing his multimillion-dollar budget, he has always to remember as paramount that the ministerial council passed a regulation when he was at the last meeting and he must tell the Western Australian Parliament. Again, I found that to be a complete nonsense.

The extended consequence of a regulation not being tabled in the Houses of Parliament of Western Australia and published in our *Government Gazette* is that regulations will then not be subject to the scrutiny of this Parliament and will not be scrutinised by a parliamentary committee. The members of the Joint Standing Committee on Delegated Legislation who are here today take their job as a committee very seriously. I think they would be horrified to know that in this legislation there was a power that would mean they would not even be able to have a look at the regulations that are being made.

Others who were members of this house before me and others who are still members of this house also hold the state's rights as of paramount importance. With the indulgence of the house, I would like to read a section of the report on a debate that took place in 2002 on the Consumer Credit (Western Australia) Amendment Bill. The words that I will quote are from none other than our current President, Hon Barry House, when he then expressed the opposition's concerns and reasons for opposing a bill that was similar to the one that is before us today. He said —

> The Opposition —

Now the government, of course —

> opposes the Consumer Credit (Western Australia) Amendment Bill 2002. In saying that, I indicate that the Opposition supports the principle of uniformity —

As do I with this legislation and the thoughts behind it —

> and some aspects that follow on from that, but we cannot support this legislation because of the process used to implement it. Our opposition is raised because this legislation uses template legislation originating from the Queensland Parliament

In a similar way to the legislation before us today —

> … to impose laws on the State of Western Australia. Uniform code regulations will be imposed throughout Australia simply by an Act of the Queensland Parliament.
>
> …
>
> That is the way this Government elects to impose rules and regulations on the State of Western Australia. Once it is implemented by the Queensland Parliament, that is the end of the story. No scrutiny of the legislation takes place anywhere in Western Australia.
>
> …
>
> The bottom line in all this is that there will be no role whatsoever for the Western Australian Parliament in determining Consumer Credit Code changes. We are completely removed from the legislative decision-making process. In addition to that, there is no accountability. There is no requirement whatsoever for the Government to notify changes in the *Government Gazette*. The only oblique reference to accountability in the minister's comments is that the Government might adopt the policy of making a statement on the proposed changes to the Parliament. It may be a policy position that the Government of the day, through the minister, might deign to regard changes to the Consumer Credit

> Code as so important that it might make a statement to Parliament. It might, but then again it might not. That treats the Western Australian Parliament and community with contempt. The Tasmanian Parliament, as I understand it, has adopted a "halfway house" situation under which it insists on the details of changes at least coming to the Parliament by way of motion so that they can be debated in the Parliament and voted on. That is still an inadequate response, but it is better than nothing. At the very least, the Government of Western Australia should be looking at something like that.
>
> These changes should be made by uniform legislation rather than by template legislation through one House of Parliament in Australia. That was the process adopted by the Liberal Party when in government, and we still support that process.

Other members of the house from both sides of politics also agreed with that reasoning. Hon Barry House finished his comments by saying —

> We are elected to this Parliament. We do not elect people to the Queensland Parliament to enact laws on our behalf. That is the basis of our opposition to this Bill.

Again, I think that is really what I want to impress on members here. I believe in the state's sovereignty. I believe very strongly in the Federation, but I am totally against this grab for power by a centralist government in Canberra wanting to make sure that everything happens over there. We need to protect the rights of Western Australia. I know there are some committee recommendations on amendments that we can make to address those, so that there is a requirement for any regulations made by the ministerial council to be tabled in this Parliament, so that the normal disallowance period could run and the Joint Standing Committee on Delegated Legislation would then be able to scrutinise those matters. There are also some government recommendations on changes. I would like the minister, in his response when we get to the committee stage, to allay my fears and to please ensure that the rights of the Western Australian people and the Western Australian government are safeguarded by what we are doing with this piece of legislation.

HON LINDA SAVAGE (East Metropolitan) [12.36 pm]: I also rise to speak to the Health Practitioner Regulation National Law (WA) Bill 2010 and the Pharmacy Bill 2010. The opposition will be supporting the passage of these bills, subject to some amendments. As we have heard, both bills were referred to the Standing Committee on Uniform Legislation and Statutes Review and reported on in reports Nos 52 and 53.

As members will recall, I became a member of Parliament in March of this year and immediately afterwards was appointed to the Standing Committee on Uniform Legislation and Statutes Review, which I think is renowned for its workload and for the quality of its reports. I have now had the opportunity firsthand to see the work that is done by that committee. I would like to take this opportunity to place on record particularly the outstanding leadership that is shown on that committee by Hon Adele Farina. She is absent today on urgent parliamentary business, so on behalf of the committee, I will be moving the amendments. In light of what I said, perhaps members will bear in mind that, as a new member of Parliament, and this the first report I have dealt with and the first amendments I will be moving —

Hon Robyn McSweeney: I wondered why you were saying that!

Hon LINDA SAVAGE: The minister might like to bear that in mind and give me a little bit of leeway or assistance!

To return to the role of the committee, as I said, Hon Adele Farina, as the chair, plays a pivotal role. Her knowledge and her forensic scrutiny of the legislation not only identify issues of concern, which leads to better legislation, but also produce reports that anyone who was interested, or needed to understand the legislation, could use as a first stop to really get a thorough grounding in aspects of the law. Obviously, this is a vital role, particularly with the increasing amounts of legislation that governments produce. As until recently a lawyer on the receiving end of legislation that I had to interpret and apply, it is reassuring that there are committees looking closely at the legislation and people of the calibre of Hon Adele Farina. I would also like to acknowledge other members of the committee: Hon Liz Behjat, who has just spoken, and Hon Nigel Hallett, who, along with me, are members of that committee. I would particularly like to thank them for their assistance to me both as a new member of Parliament and as a new committee member when we had to consider these very substantial pieces of legislation. On behalf of the committee, I would also like to thank Suzanne Veletta, the advisory officer, Susan O'Brien, the legal officer, and Mark Warner, the committee clerk, who supported us when considering the national law and the Pharmacy Bill. I also thank the Clerk, Malcolm Peacock, who, when I realised late last night that I would be in this position, provided some advice to me at short notice this morning about moving amendments.

I was going to speak briefly about each bill, but the speakers before me have very well covered the intention of the bills and the reason they are being considered cognately. However, because this is my first experience of

sitting on a parliamentary committee and writing a report, I would like to make a few general comments about my experiences of the process of the committee. Hon Adele Farina has already raised the point that this committee works to a very tight time line; that is, it has 30 days to report. Obviously, that puts enormous pressure on the committee and the staff, particularly when the committee always wants to do a very thorough job. In light of that, it is important to read into the record a concern that was expressed by the committee relating to some difficulties that the committee had in obtaining information. In order to expedite the process, questions are sometimes drawn up and provided to witnesses so their capacity to answer when they appear before the committee is increased. After seeing those questions, they would at least have an indication of the areas that will be considered. In a number of instances the Department of Health referred the committee to, for example, the Australian Health Workforce Ministerial Council to answer our questions or for us to access documents. The committee found that this impeded the proceedings and obviously meant that there was a delay in getting information that the committee felt was appropriate for its deliberations.

Another issue that I will refer to again that is related to the workload of the committee and also its short time line to produce reports occurred with the Pharmacy Bill. Because of the need for the two bills to be brought on together, eventually a decision was made that witnesses would not be called to make submissions before the committee on the Pharmacy Bill because of the concerns of meeting the time line and the understanding that to seek an extension of time would further delay the passage of these bills. As members will know, we have seen a delay in Western Australia becoming part of the national scheme compared with other states. It is not expected to occur until October, although it was hoped to have occurred on 1 July.

As I said, the opposition is supporting the bills with some amendments. I would like to speak about the basis for the amendments and provide some information, based on the committee's report, about why those amendments were sought. The first area—Hon Liz Behjat referred to it—relates to the national law regulations. When I say that I am referring to the Health Practitioner Regulation National Law (WA) Bill, I will refer to it as the national law, as we do in report 52. The report states —

> The National Law provides for the Ministerial Council to make regulations on any matter '*that is necessary or convenient to be prescribed for carrying out or giving effect to this Law*' …

As has been mentioned, the national law has provided that the regulations published by the Victorian government printer have effect in Western Australia on the date or dates specified in the regulation regardless of whether the Western Australian Parliament and community have been informed of that. As has already been said, the committee raised its concerns about that and in particular asked questions about how the Western Australian Parliament, health professionals and members of the community would become aware that such a regulation had been published. The committee was told that we could ensure that we would be notified in this Parliament by subscribing to an electronic alert subscription service provided by the *Victoria Government Gazette*. In response, the committee stated, as outlined in paragraph 3.2 —

> This suggestion reflects the lack of attention that has been given to the practical application of the National Law. The Committee felt the flippant response by the Department of Health reflected a disregard for the authority of the Parliament and, by extension, the people of Western Australia.

On that basis, the Department of Health then suggested that the Minister for Health would take responsibility for ensuring that the Parliament was informed. Again, the committee raised its concerns that such a responsibility of a current health minister could not be passed on to a subsequent health minister and that something far more concrete was needed to ensure that the Western Australian Parliament would be made aware of any regulations. As the bill stands, regulations will not be tabled in the houses of Parliament of Western Australia because the regulations do not prescribe that they should be. Section 70 of the Interpretation Act 1984 does not apply to the national law. This has the effect of not applying to sections 41 and 42 of the Interpretation Act, which mandate that regulations should be published in the *Government Gazette* and laid before each house of Parliament within six sitting days following publication in the *Government Gazette*. As has already been mentioned, an important consequence of regulations not being tabled in the houses of Parliament and published in the *Government Gazette* is that those regulations would not therefore be subject to the scrutiny of the Parliament and the relevant parliamentary committee. There are some amendments on the supplementary notice paper that address that and will be discussed in the committee stage of the bill. I would also like to make the point that it may be argued in any event that these concerns about the regulations could be seen as somewhat academic. The reason I make that point is that it requires a majority of jurisdictions to disallow a regulation for a regulation to cease to have effect. Even if it is disallowed in this jurisdiction, it would require a majority around Australia for it to have effect. This adds to our concerns. Currently under the bill, Western Australia would not know about a regulation and might not even know that a majority had disallowed a regulation. This will be unworkable in practice. Not only will the regulations not be subject to scrutiny, but also this system will be unworkable in practice. There is no mechanism

in the national law bill to enable jurisdictions to be notified that another jurisdiction has disallowed a regulation. In the absence of this, jurisdictions will be led to believe that the disallowance of a regulation will have no effect because it requires a majority, because they will not know what the other jurisdictions are doing.

In some ways it will be not only self-perpetuating, but also very confusing for both health practitioners and governments. That is the basis on which amendments will be moved during the committee stage.

I will now focus on the concerns that led the Standing Committee on Uniform Legislation and Statutes Review to propose a number of amendments to the Pharmacy Bill. Certain clauses in the bill have the effect of removing the presumption of innocence. The committee has sought clarification of clause 71, among other elements of the two bills. I look forward to the minister providing that clarification. Clause 71 has a significant affect on the presumption of innocence. As it stands, clause 71(2) provides that when a corporation is convicted of an offence under this legislation, any officer who is also charged with that offence is taken to have been convicted of that offence. Clause 71(3) envisages and allows for a situation in which a body corporate can be regarded as having committed an offence even though no charge has been laid against it or conviction handed down. On the basis of this—that an offence has been committed despite no charge being laid or conviction handed down—clause 71(4) then provides that if an officer is charged and it is proved that the body corporate has committed the offence, the officer is also taken to have committed the offence unless the officer can establish one of the defences provided for in clause 71(5). As report 53 notes, the bill provides no guidance on the meaning of the words "committed the offence" or the word "proved". As a result, it was of real concern to the committee that the effect of clause 71(3) and (4) is that a corporation can be found to have committed an offence in the course of proceedings to which it is not a party, and that an officer can then be deemed to be guilty of an offence although there is not, as far as the committee could ascertain, any recognised trial process in which the evidence is tested. Given the ramifications of clause 71 on the presumption of innocence, the committee has asked for this matter to be clarified. A number of members have spoken about the two bills, so I will not say any more at this stage. I look forward to hearing from the minister during the committee stage of the bill.

HON COL HOLT (South West) [12.53 pm]: The National Party supports both the Health Practitioner Regulation National Law (WA) Bill 2010 and the Pharmacy Bill 2010. I will talk briefly about some of the greatest challenges in regional Western Australia with health practitioners. I do not think I need tell any member, and certainly not country members, that the greatest challenge in the bush is in attracting and retaining trained health professionals. No matter where one goes in country WA, one of the biggest issues that communities face is reliable health care. I am talking about not only general practitioners, but also all the professions listed in the bills. People want access to physiotherapists, optometrists and GPs in their local communities. We, as a government, are working hard to address some of those issues. We have an ageing population. As people get older, they want to stay in familiar territory in their home towns and to be surrounded by their family and friends. They want to be supported by those people. One of their greatest challenges is getting adequate medical support as they age and have greater medical needs. Any legislation that might help to attract more health professionals and health practitioners to Western Australia can only be good.

The royalties for regions program recently funded a report by the South West Medical Attraction Taskforce, which basically looked into ways to get GPs into the south west. Even the south west, with all its attractions, does not have enough GPs! That is the case in Perth as well as in many other areas of Western Australia. The south west, with all it has to offer, does not have enough GPs, let alone the Wheatbelt, the Pilbara or some remote areas in the Kimberley, which really need greater resourcing and greater numbers of GPs.

Uniform legislation like this comes with the risk that people will move out of WA. The bill introduces some mobility for people to go from job to job, and there is a risk that practitioners will move out of WA. It is up to us as a government to look at ways of providing incentives to people to come to WA to practise medicine. We are starting to do that. We are addressing many of the issues in regional WA about the services that people expect in regional WA and the level of support for government services in regional WA. That is a way of trying to attract more people and more services to the bush to support our communities. This legislation will support the mobility of people into WA. If we get more GPs in Perth, more GPs will be available for country areas. If the legislation can do that, we should promote it as one tool in the whole list of government actions that can get more health professionals into regional WA. The National Party will support these two bills. I look forward to the discussion during the committee stage, when some amendments will be moved.

HON ALISON XAMON (East Metropolitan) [12.58 pm]: I will make some comments about these bills, but particularly about the Health Practitioner Regulation National Law (WA) Bill 2010. I share the concerns laid out by my colleague, Hon Giz Watson, and also some of the concerns expressed by other members and the Standing Committee on Uniform Legislation and Statutes Review. I am particularly concerned about the mandatory

provisions outlined in the national law bill, as well as those on spent convictions. We will obviously have an opportunity to talk about those in greater detail during the committee stage. As has already been said by others in this place, there are concerns about this Parliament losing the ability to scrutinise and disallow regulations made under this legislation. I will also make some comments about the implications of this bill for specialist psychologists in Western Australia, which I am very concerned about. As Hon Giz Watson pointed out, there was considerable discussion within the Greens (WA) about whether we could proceed with support for the bill as a whole. I would certainly have liked the repercussions for specialist psychologists to be removed from the bill, but we recognise that many of the aims of the bill are positive. As such, we will be supporting the bill, although I certainly hope that we can get some clarification and commitments from the minister.

Sitting suspended from 1.00 to 2.00 pm

Hon ALISON XAMON: Before the lunch break I was outlining my broad concerns about the Health Practitioner Regulation National Law (WA) Bill 2010. I am looking forward to being part of the further debate about that bill when we go into committee. I want to speak in particular about my concerns regarding the implications this bill will have for specialist psychologists in Western Australia. As I have indicated, those concerns are so great that it would have been my preference to excise the provisions for specialist psychologists to allay my very deep concerns about them. However, I am aware that that is very difficult to do, which is why, on the whole, the Greens (WA) will support this legislation. I certainly hope that when the minister replies to the second reading debate, he puts on the record some of the undertakings that I believe have been given by the Minister for Health in relation to specialist psychologists. I will go into that in more detail as I go.

Generally, the purpose of the bill is to create a single national registration and accreditation scheme for the health professions. The national scheme will cover the registration and accreditation of health professionals and ensure consistency in the areas of complaints, conduct and health performance, and also privacy and information sharing. I note that the national scheme prescribes offences for unregistered practitioners of the regulated professions. If this legislation is passed, the state-based system will be replaced with a new national scheme. As my colleague Hon Giz Watson said, the Greens (WA) are broadly supportive of this attempt. However, there is a level of uncertainty around the proposed national scheme. As noted on page 5 of the fifty-second report of the Standing Committee on Uniform Legislation and Statutes Review into the Health Practitioner Regulation National Law (WA) Bill 2010, the bill contains only the skeletal legislative framework of the national scheme, and a significant amount of detail is yet to be determined, which concerns me. I am concerned also that we have not had the opportunity to appropriately scrutinise the national scheme and its associated legislation. Paragraph 1.27 on page 5 of the committee's report states —

> State Ministers and departments need to justify to the Committee and ultimately Parliament why such a national scheme is necessary and why it is in the best interests of the Western Australian public to enact the legislation implementing or giving effect to the national scheme.

In effect, that has not been done. I note also the concerns of the committee about the restrictive time frame that was available to it to thoroughly examine the implications of this quite comprehensive legislation. I would like to join the chorus of support for the Standing Committee on Uniform Legislation and Statutes Review and for all the members on that committee for the excellent job they have done on this bill, despite the short time frame. I echo the congratulations for Hon Adele Farina for the excellent work that she continues to do while chairing this committee.

Facilitating the movement of health professionals around Australia is a good goal, but I am not sure whether that is enough to justify rushing legislation through Parliament without giving it adequate scrutiny or understanding as to how it will be enacted in practice or what effect it will have. The Health Practitioner Regulation National Law (WA) Bill 2010 grants wide powers to a ministerial council and associated national boards. These powers will replace the detail contained in the current state legislation. On page 21 of the committee's report it is noted that the effect of the bill is the transfer from a legislative framework to a more administrative framework.

They are just some of my general concerns about this bill. Again, I echo the comments made by Hon Giz Watson regarding the lack of Western Australian parliamentary oversight of the national scheme as well as the lack of legislative detail. I believe that the passage of this legislation, without amendment, will result in the loss of transparency and accountability. In that regard, it is hard to see how the Western Australian public will benefit.

I refer now specifically to the concerns that psychologists have raised with me. I am sure that I am not the only member in this place who has been approached by psychologists with their concerns. Psychology is one of the 14 professions that will join the national scheme and it is one of the 10 professions that will join the scheme from 1 July this year. A number of concerns and objections to the regulation of psychologists under this scheme have

been raised with me. As I said, I am sure that they have been raised with many other members. I understand that they were raised also with the Standing Committee on Uniform Legislation and Statutes Review. Psychologists are rightfully very passionate about their profession and concerned about the implications this legislation will have on their profession. I commend them for that and for speaking out and being so ardent about wishing to defend the integrity of their profession. On that note, I am not convinced that their concerns have been adequately addressed. That is one of the reasons I have such serious concerns about supporting those provisions within this legislation.

The first concern expressed to me by psychologists relates to the loss of the "specialist" title. Western Australia has had a specialist scheme for many years. This has been enshrined within our state legislation. Disappointingly, the national scheme does not recognise the rigour and high standards of our WA scheme. It does not seek to bring the rest of Australia up to our level; instead, it grants the national board the power to recognise and endorse areas of practice in psychology. Although the legislation allows for recognition of specialist medical practitioners and specialist dentists, it does not allow the same for specialist psychologists. I am not convinced that an endorsement of specialist psychologists is adequate. It certainly does not go towards meeting the concerns of that profession. The recognition of a specialist title sends a clear message to the public that those psychologists with specialist title have undergone significant further training and experience in their chosen field of specialisation. I firmly believe that this should not be undermined. If we are going to do that, I believe it will be detrimental to both the psychology profession and those psychologists who have worked so hard to get that specialist title. A fair amount of additional training is involved to become a specialist. I also think it will be detrimental to the general public seeking mental health services and who hope to get a particular level of expertise from a psychologist. Endorsement is not the same as specialist recognition. Endorsement will lie solely within the power of the national boards. It is an administrative rather than a legislative process. It is a reduced level of recognition and a reduced level of protection for consumers of psychological services. It is basically going backwards for WA. We are letting our Western Australian specialist psychologists down by going down this path. I do not understand why the national scheme will have both specialist recognition of medical practitioners and dentists and endorsement of areas of practice for psychologists. It has yet to be explained to me why we have two different processes for these professions. It has yet to be explained to me why we cannot look at specialist recognition of our psychologists in the same way. It does seem a strange way to proceed. This needs to be addressed. As recommended by the Standing Committee on Uniform Legislation and Statutes Review, the minister needs to provide this place with a better understanding of these issues.

I understand, from speaking to specialist psychologists who have met with the Minister for Health and who have been lobbying on this area for quite some time, that there has been a suggestion that these bad decisions can be reversed at some point in the future. I really hope that is the case. I hope that the recognition of specialist title for psychologists will be included in the national scheme. I certainly hope that the Greens (WA) are not the only party in WA to believe that when our standards are better than that of other states, we should be working towards bringing those states in line with us, with our improved standards, rather than reducing our own standards to the lowest common denominator. We should not be looking to drag down our professional standards in this industry or, I would argue, in any other industry. If we are not prepared to protect our own standards, we really should not be going into a scheme that will reduce standards. I hope that the minister is fighting very hard for psychologists and also for members of the WA public who want to acquire the services of a specialist psychologist in the future. I understand undertakings have been made by the Minister for Health to advocate for specialist psychologists in the Council of Australian Governments meetings. I hope that is the case, but I really have no guarantee. I am hoping that the minister can give us some more information in his reply.

The specialist psychologist community in WA has called for the establishment of a statutory board in WA, specifically to oversee the registration of specialist psychologists and to monitor the continuing education and supervision of specialist psychologist registrars. I believe some misinformation has circulated that the psychologists wanted the current board and all its functions to be maintained. I understand this is not necessarily the case. They are advocating for the creation of a new, small state board to maintain the current standards in WA. If the national scheme does not offer our public an adequate level of guidance and protection, maybe we should consider our own scheme to do that. I acknowledge that this will certainly not be ideal as it creates a dual registration scheme; however, it may be that it can be done in an uncomplicated way until such time as the national scheme is brought up to our current standards, as has been promised to specialist psychologists. If we were to go down the path of this proposal, it would result in the creation of a three-tier system consisting of four-year-trained psychologists and psychologists endorsed to practise in specific areas, both registered under the national scheme; and then WA specialist psychologists who would be registered by a WA specialists board. There may be some merit in considering this proposal. I put to members in this place that this is a proposal that has come from specialist psychologists themselves as a way to move forward, although of course our preference would be for the national scheme to protect and recognise specialist psychologists in the first place.

The second issue that has been raised with me by a group of psychologists over the past few months is the omission of health and community psychology within the different fields of psychology specialisation. I do not really understand why these two fields of psychology have not been included in the national scheme. I believe that the Department of Health, the Australian Psychological Society and the Psychology Board of Australia support the inclusion of health and community psychology. It seems odd to me that these areas have been excluded. Both specialties are significant branches of psychology. They are recognised internationally as well. They both include accredited specialist university courses. These courses have been developed over several decades.

I recently tabled in this place a petition on behalf of a group of community and health psychologists. I would like to quote from the petition. The petition stated, in part —

> Both specialities —

By that they meant community and health psychology —

> are recognised world-wide as having an increasingly vital role in advancing positive health and well-being as well as in ameliorating mental health problems, and will be essential in reducing the increasing acute costs of health care as indicated in the Healthy Future for All Australians report (2009).

I will briefly comment on some of the important contributions of these two specialties and point out some of the work these areas cover. Health psychologists are postgraduate-trained experts who focus on the understanding of the crucial psychological components of good physical health that are applied through clinical work and health promotion. Health psychologists play an important role, particularly in the management of chronic disease. Their competencies are in the diagnosis and treatment of the behaviours, beliefs and attitudes that negatively impact on the prevention and management of chronic disease, as well as in a range of related disorders such as anxiety, depression, grief and addiction. I hope members do not mind. I quoted that directly from my notes because I wanted to make sure that I got it quite precise. Health psychologists can play a really vital role in making broad improvements to public health through their work. In their work, they increase patient adherence to prescribed medicines, medical testing and also lifestyle changes.

Health psychologists provide direct services in acute care, community services and private practice, and they also consult with, and educate, other professional groups in health behaviour change, and assist with health policy programs. They provide cost-effective interventions that deliver better outcomes from surgery and rehabilitation. This results in decreased hospital admissions and also assists with the slowed progression of chronic illness.

Community psychologists work preventatively to improve health and wellbeing. The field of community psychology focuses on prevention and early intervention as a means to promote health in addition to treatment. Community psychologists, like other psychologists, are focused on facilitating change in behaviour and attitudes, and generating the means to effect that change. However, rather than focusing on an individual's behaviour change, they work with psychological concepts such as a sense of community to address system level change through researching and also developing and implementing theory relating to legislative initiatives, environmental change and community-wide reform. These sorts of initiatives are very relevant to health promotion activities, and again they are involved with things such as facilitating exercise in the management of chronic disease, developing social support networks and supporting resilient communities. Community psychologists also play a key role in foregrounding prevention of family violence as being very crucial to women's mental health and mental wellbeing. They use principles of equity and respect for diversity. Australian community psychologists have established strong links with Indigenous and other community groups that have typically lacked access to mainstream health services. They also make very important contributions to reducing levels of illicit drug and alcohol use, as well as youth tobacco use and suicide and road deaths. Following the recent Victorian bushfires, the contribution of community psychologists was absolutely enormous. They played a really important role—a vital role—within those communities, both in preparation for, and in response to, the community-wide tragedies.

These two areas of psychology—health and community psychology—are particularly focused on public health approaches, and have developed specialisations and international research standing that cannot be covered in any other area of specialist psychology. They make a major contribution to extending psychological care from traditional areas of service delivery, such as hospitals and clinics in major cities. They go out to schools, workplaces, sports settings and art precincts, and obviously they do a lot of work in rural and remote communities also. These are really critical for successful health promotion, illness prevention and early intervention.

There is a desperate need in our society for psychologists of all specialties and at all levels of engagement, including engagement with individuals, but also with marginalised groups, communities and those who work on health promotion and illness prevention across whole populations. I think that investment in the core areas of illness prevention and health promotion has been shown to be among the most cost-effective ways in which we can spend our health dollars.

Psychologists are very concerned that the failure to include in the national scheme community and health psychology in those recognised areas of specialisation would result in the discontinuation of postgraduate programs in these areas. Today I have tried to highlight how critical these areas are and what a loss it would be if we were to downgrade the value of these particular categories of specialist psychology to our society. It would be a huge loss, particularly at a time when we are so desperately in need of specialists with expertise in systemic change, disease prevention and health promotion. Therefore, I support the calls of the Australian Psychological Society, as well as the individual psychologists who have contacted me, regarding the importance of maintaining the diversity of their profession. Health and community psychology should be included in the national scheme.

I will also briefly put the case for Western Australia having its own state board of the Psychology Board of Australia. I understand that at the moment the proposal is for WA to have a regional board shared with South Australia. I do not think we should have to share a psychology board with another state. On this point, I certainly concur with the committee. South Australia and Western Australia do not have a shared background in the way that we regulate psychologists. WA has a unique disciplinary system, and it is operated through the State Administrative Tribunal. We are the only state that currently recognises specialists. Therefore, I think we need a board that is going to understand WA specifically. Having only three Western Australians on a regional board is unlikely to be enough, given that the current Psychologists Registration Board of Western Australia comprises eight members and meets every month.

In summary, the Greens support improvements to the quality and the safety of our healthcare system, obviously. We also support moves to facilitate the increased mobility and flexibility of our health workforce around Australia. It is common to now work in several different states. We recognise that for health professionals to be able to move freely around Australia to deliver health services is certainly a good thing. However, when we are considering legislation about health, the safety of the public should be the primary concern. That is why we certainly do not support any lowering of Western Australia's standards for psychologists. Again, as I said, I also do not support legislation that reduces our ability to scrutinise and potentially disallow regulations. As I said before, I think that that will have the effect of reducing accountability and transparency. On that note, we support the amendments proposed by the committee to improve these deficiencies within the legislation.

Western Australia has a strong history of nation-leading high standards and regulation in the psychology profession. I can understand why WA psychologists do not want to lose that specialist title. I can understand why they want community and health psychology to be recognised under the national scheme. Again, I do not know why neither of these things has been reflected in the plans for the national scheme. I urge the minister to do his utmost to progress these issues and to ensure that good outcomes are achieved, not only for Western Australian psychologists, but also for the Western Australian consumers of the services of those psychologists. Therefore, I will be seeking an undertaking from the minister that that is what he will do. We certainly do not want this state to go backwards and be worse off under this national scheme. Considering that psychologists have taken these extra steps to do that additional training and to work so much harder, it is highly problematic that they will now effectively be penalised as a result of coming into the national scheme.

I commend the members of the psychology profession for their passion and for the diligence that they have demonstrated in engaging in this debate and campaigning on these issues. These are very important issues. I know that their voice has been heard. I hope that in hearing their message, the members of the ministerial council will do the right thing and make the necessary changes to the national scheme.

HON SIMON O'BRIEN (South Metropolitan — Minister for Transport) [2.31 pm] — in reply: I thank honourable members for their support for the Health Practitioner Regulation National Law (WA) Bill 2010 and the Pharmacy Bill 2010 in the first instance, and also specifically for their contributions to the second reading debate. It is obvious that a lot of homework has been done on these matters by a range of different ministers. In aggregate, that work has contributed towards helping to educate the house about these bills. That is very justifiable for a house of review. That is a theme that has emerged in the course of dealing with these bills, and one that I will be alluding to in my remarks. It will also become apparent, I think, when we come shortly to contemplating some amendments.

The Health Practitioner Regulation National Law (WA) Bill will give effect to a national scheme. That national scheme will create a single national registration and accreditation scheme for 10 health professions: chiropractors; dentists, including dental hygienists, dental prosthetists and dental therapists; medical practitioners;

nurses and midwives; optometrists; osteopaths; pharmacists; physiotherapists; podiatrists; and psychologists. It is contemplated that from 1 July 2012, another four professions will be added to this national scheme. Those professions are Aboriginal and Torres Strait Islander health practitioners, Chinese medicine practitioners, medical radiation practitioners, and occupational therapists.

The Health Practitioner Regulation National Law (WA) Bill, together with the Pharmacy Bill 2010, has been introduced into the Parliament of Western Australia to modify our legislation to give effect to our participation in that national scheme. In so doing, we will be repealing and modifying some of our existing legislation, and we will be adopting essentially the substance of the model national law. That model national law is found in the schedule to our bill and in fact forms the vast bulk of the document that members are now contemplating.

When a national scheme of this order and magnitude is contemplated, it attracts, just because of the sheer scope and number of people involved—in fact, very closely involved because of their professional affiliations—a great deal of interest. We have heard already about some of the representations that have been made to government in the course of its involvement at ministerial council level in working up the local enabling legislation. We have heard also about further representations that have been made during the passage of this bill through the Western Australian Parliament. Just now we were reminded of a petition that was presented to this house on behalf of psychologists to put to the house their concerns about this legislation. The same can be said for a range of other parties that are extremely interested in and concerned about this legislation. This legislation is of great importance to a large number of people. Therefore it is understandable that there should be so much interest in this legislation by not only members of this chamber but also people outside this chamber.

In the course of my second reading response on behalf of the government, I need to indicate a number of things. Firstly, having noticed that this bill seems to have, without exception, the support of the house in its second reading, I will be relying to some extent on the committee stage—which I anticipate will follow soon if that is the will of the house—to get into some fairly detailed exchanges with members about some of the matters that they have raised. I will also be paying regard to two other documents that I think lead in that direction. Firstly, we are all in receipt of a supplementary notice paper for this bill. That supplementary notice paper contains a number of amendments from a number of sources, including from me on behalf of the government. That will invite us to contemplate in detail those matters that are listed for potential amendment. The second document is the report of the Standing Committee on Uniform Legislation and Statutes Review on this bill. That report proposed some amendments, which we will deal with in due course. It also made the recommendation that I be invited, on behalf of the government, to provide some information to the Legislative Council in relation to certain questions. I will deal with each of those documents in turn in a moment.

Before I do that, I want to turn to some of the remarks that were offered by members during the course of the second reading debate. I thank the opposition for its support of these bills. I note that the opposition understands the concerns that have been raised by various groups. I hope that my opening remarks in closing this debate, in which I acknowledge the importance of this legislation to so many people, will be recognised as a bipartisan sentiment. I think everyone in this house recognises that many of the professionals who are working in this area have a great deal of interest, both personal and professional, in the details of this national scheme. It is, therefore, important that there be some recognition of that. I now state, in concert, I think, with the Leader of the Opposition in this place, that we understand that these things matter, and that the question of titles and recognition of qualifications is a matter of substance and not just of sentiment.

Hon Sue Ellery, as the lead speaker for the opposition, also asked me to address some of the questions relating to clinical psychologists. I will come to that in due course. She also restated for the benefit of the house three concerns that were raised specifically by the Australian Medical Association. There was a concern about the use of the term “appropriate quality” rather than “best practice” in the context of this legislation. There was also concern about the need to protect the title “physician”. There was also a very delicate question about the mandatory reporting provisions as they relate to doctors and other health professionals themselves seeking treatment. I advise members that each of these concerns have been picked up by the government following further consultation and are reflected in the amendments that now stand in my name on the supplementary notice paper.

There was a contribution from both Hon Giz Watson and Hon Alison Xamon of the Greens (WA), and I thank them both for giving notice of some specific details on the impacts of spent convictions, which they wish to pursue. I understand an amendment is to be pursued about the question of the phrase “alcohol and other drugs”. Also there is a further debate to be had about the questions of mandatory provisions. I know that Hon Giz Watson would share my view that if there is general support for the second reading of the bill, the committee stage would be a good place where we can have a dinkum exchange and get those concerns out and on the record.

The question of regulations has been raised by several members. Hon Liz Behjat raised it; Hon Linda Savage in discussing the committee's report raised it; and others have raised it. The question of regulations, how they are made and how they are reviewed or not by this Parliament will be a subject that gets a fair old airing when we get to the committee stage. As I indicated in my earlier remarks, that is what a house of review is all about. We look forward therefore to giving that a good airing, not only for its intellectual interest, but also as a practical manifestation of what this house of Parliament should be analysing in the context of a house of review. I thank other members, including Hon Col Holt and all members who participated in their contribution to the second reading debate.

I turn now to the report of the Standing Committee on Uniform Legislation and Statutes Review. Some comments have been made about this committee, how long it has to report and the good work that it does. These are matters that have arisen from time to time, and I think we all recognise that this is a committee that does good work, staffed by some very good officers and some very competent colleagues. Perhaps some may have the view that it was in the last Parliament that this committee really hit its straps and reached its zenith.

Several members interjected.

The DEPUTY PRESIDENT (Hon Matt Benson-Lidholm): The Chair is in total concurrence with Hon Simon O'Brien's views!

Hon SIMON O'BRIEN: In our day, Mr Deputy President, as I might say, the standards were set that the current committee seeks to emulate! It has certainly had a good example from those who went before; there is no doubt about that. I therefore very much support this committee in its work. Some of the sentiments that have been expressed today are matters for another day. The question of how long bills should stand referred and all the rest of it are debates that have been had before and will probably be had again. They are matters for another day.

Turning to the report itself and specifically to the recommendations that have flowed therefrom, I turn firstly to the recommendations for the Health Practitioner Regulation National Law (WA) Bill. I indicate that in considering recommendations 1, 2, 3 and 4, which each and together relate to the questions of scrutiny of regulations and their treatment, this is something that is very specific as an issue. I have already identified that, as have other members, and the matter will be considered in detail when we consider clauses 7, 245, 246 and 247 of the bill in the committee stage. I will leave the substance of that debate largely until then. But it raises this whole question of how this jurisdiction interacts with other jurisdictions under national schemes. It is not only health and pharmacy schemes; it is a range of other matters. We have ministerial councils in this country all cheerfully proposing harmonised schemes. Time and again this Parliament is called upon to consider issues that touch, sometimes very heavily, on the question of state sovereignty. Once again, therefore, we will be asked in the context of this bill to do just that.

It is contemplated that regulations will be made under the national law by a consensus of the ministerial council in future. That will therefore give the minister representing Western Australia from time to time at that ministerial council the capacity to either agree with or veto any proposed future regulation as Western Australia sees fit. Indeed any other minister would have the capacity of veto as well; that is, if that ministerial council's enduring understanding of the term "consensus" matches mine. That is fine in itself, but that does not mean that a minister of the day would necessarily agree to a proposed regulation that might always find favour with both houses of this Parliament. So, we must then consider—and the committee considered—what happens if this Parliament does not like a regulation? The mechanics under the intergovernmental agreement are these: if a regulation is agreed by the ministerial council by consensus, it is then gazetted via the Victorian Parliament and becomes effective in all jurisdictions as part of this national scheme. There is provision for any such regulation to be disallowed by any Parliament, including this one, if that house of Parliament sees fit. However, in the context of the national scheme, a regulation would be disallowed only if a majority of jurisdictions each moved to disallow the offending regulation. A member—I think it was Hon Linda Savage—thought that was very unlikely to occur. I agree. I cannot see that happening in a month of Sundays. I think that sounds to me like a very unlikely way of disallowing or doing away with a regulation that is seen to be undesirable. All my experience—I have had some—in these matters, including the committee I referred to earlier, counsels me against that being a system that will work very efficiently. What happens, I wonder, if a regulation is found to be causing some undesirable and unintended consequence after it is gazetted in Victoria and applied across the nation? What would happen, one would think, is that as soon as it becomes apparent, the ministerial council would simply introduce a new regulation that does away with the bad one and put something in its place if necessary; that is how it would be done. A process of disallowance would not be gone through in a majority of jurisdictions. That mechanism can be used to get rid of regulations that do not work or have unfortunate, unintended consequences. But that does not address the central question raised by several members today, which

is the question of whether or not the Western Australian Parliament has control to disallow any regulation that it does not like.

This house can consider that matter in due course as we go through another stage of these bills, but I think I have fairly outlined what the question is. The house will have to decide on, and members will have to contemplate for themselves, the relative merits of the giving up of some part of our jurisdiction and sovereignty, which always happens when we enter into a harmonised national scheme, and how much we are prepared to give up and whether, on this occasion, that is a desirable thing. We will discuss that, I anticipate, in some depth in due course. But in the meantime let me reassure members that the Minister for Health, whom I represent at this time, has gone to strenuous lengths to make sure that the interests of Western Australia are protected to the maximum amount possible in this matter. The government contends that it will be a requirement, for example, that there be that unanimity—that consensus required at ministerial council level—before regulations are gazetted. One would think that it is likely that most of the regulations gazetted would be of a machinery nature, rather than of a radical policy nature anyway, and that there is a high need for a centralisation of decision making if we are to have a national scheme that actually delivers the things that national schemes are created to deliver. They are matters of judgement for the house to make in due course.

Some of the things that offended members have been addressed by the Minister for Health at his behest, and are reflected in some of the amendments that members can see on the supplementary notice paper. For example, a question was posed about how this Parliament would know when a regulation has been gazetted in Victoria, and an answer was given that this Parliament can subscribe to a website or something to find out. That offended a lot of members, and it certainly offended me. At the very least, we will be moving amendments to make sure that there is a guaranteed and legislative notification mechanism that respects the interests and the right to know of this Parliament.

I will move through the other recommendations contained in the report. Recommendation 5 states —

> **… the responsible Minister advise the Legislative Council of the reason(s) for there being no requirement, legislative or otherwise, in the National Law that the Ministerial Council, National Boards, State or Territory Boards and Advisory Council publish agendas and minutes of meetings on the website, in view of the guiding principle that the National Scheme is to operate in a transparent and accountable manner.**

The government's response to that recommendation states —

> Although there is no legislative requirement to publish agendas or minutes of meetings, the National Law provides for significant transparency. The following must be published:
>
> - approved programmes of study
> - approved accreditation standards
> - approved registration standards, codes and guidelines
> - fees
> - directions by the Ministerial Council to the National Agency
> - directions and approvals by the Ministerial Council to a National Board
> - advice to the Ministerial Council from the Advisory Council (except where it should not be published in order to protect the privacy of an individual)
> - accreditation processes
> - the periods for which registrations will apply
> - details of education providers who do not provide lists of students undertaking health practitioner courses
> - workforce planning information obtained by Ministerial Council from a National Board
> - decisions made by panels established by a Board; and by responsible tribunals (ie SAT in WA)

Recommendation 6 sought an undertaking that —

> **… the responsible Minister give an undertaking that he will raise at the next meeting of the Ministerial Council for its consideration the proposition that registration fees should be prescribed in National Law regulations, in addition to being published on National Board websites.**

The minister's response was —

> The Minister for Health will take the Committee's view forward to a meeting of the Ministerial Council where consideration can be given to the recommendation and if agreed then the National Law can be amended accordingly through the agreed process.

Recommendation 7 relates to a proposed amendment, which we will deal with under clause 12.

Recommendation 8 states—

> **… that the responsible Minister advise the Legislative Council why the National Law provides for specialist recognition as well as endorsement of areas of practice, in what circumstances the National Scheme will consider one preferable to the other and the distinction between specialist recognition and endorsement of areas of practice.**

The minister's response states —

> Specialist recognition is provided where specialists have been previously recognised widely in the jurisdictions, ie medical and dental practitioners. Endorsement of areas of practice is essentially similar but may apply where specialist recognition was not widely in place previously.

In relation to what circumstances the national scheme will consider one preferable to the other, the response states —

> The scheme has no preference for one over the other.

In relation to the distinction between specialist recognition and endorsement of areas of practice, the response states the following —

> Specialist recognition reflects those areas of health practice that have historically had nationally recognised specialties. Endorsement of area of practice applies where that history is not present but where there are good reasons for recognising expertise in particular areas of practice.
>
> There is very little practical distinction between specialist recognition and endorsement of areas of practice.

That Minister for Health's response contains other notes that are not particularly long, but I think it is important that I read them into the record now, particularly in view of some of the comments made on the question of specialty during the second reading debate. I will add the following —

> The medical profession and the dentists division of the dental profession are specified in the National Law Act as areas where there MAY be specialists.
>
> Other areas where there may be specialists are approved by the Ministerial Council, on the recommendation of the relevant National Board.
>
> Areas where there MAY be endorsement are not specified in the National Law Act, but are approved by the Ministerial Council, on the recommendation of the relevant National Board.
>
> For both, Ministerial Council approves specific areas of speciality endorsement on the recommendation of the relevant National Board.
>
> **Use of titles**
>
> Section 115 provides for restrictions on use by any of person of specialist titles with penalties up to $30 000 for individuals and $60 000 for corporate bodies.
>
> Section 118 provides for restrictions on claims by any person to be a specialist health practitioner with penalties up to $30 000 for individuals and $60 000 for corporate bodies.
>
> There are no equivalent specific provisions in relation to endorsement, however, there is equivalent protection through a combination of section 113 which prohibits use by any person of specific general registration health practitioner titles and section 119 which prohibits claims about type of registration or endorsement which together prohibit both registered health practitioners and others from claiming endorsement when not entitled to—penalties up to $30 000 for individuals and $60 000 for corporate bodies.

Under recommendation 9, the committee has asked that I —

> **…advise the Legislative Council of the reasons for the Psychology Board of Australia's decision to prefer endorsement of areas of practice in favour of specialist recognition for the psychology profession.**

I advise as follows —

> Psychologists are not recognised as specialists in other jurisdictions and there are no commonly accepted registration standards for specialist psychologists in the legislation of other jurisdictions. Specialist registration for psychologists is currently under consideration for the national scheme.

In relation to recommendation 10, the committee has asked that I —

> **…advise the Legislative Council of the reasons for the Ministerial Council's decision to not approve community psychology and health psychology as endorsed areas of practice for the psychology profession.**

I advise as follows —

> The Ministerial Council followed the WA approach. The seven areas reflect those currently in the WA Psychologists Act 2005 … and Psychologists Regulations 2007 … Community psychology and health psychology are not currently recognised as areas of specialty in WA.

Finally, under recommendation 11 the committee has asked that I —

> **…advise the Legislative Council of the reasons for the Psychology Board of Australia's decision to establish a South Australian and Western Australian Board of the Psychology Board of Australia (Regional Board) rather than two separate State Boards and detail the expected cost savings, if any, from the establishment and operation of the Regional Board.**

I offer the following observation about the subject matter of this recommendation. One of the things that arises when participating in national schemes is that, by definition, there has to be a shift towards the national focus and away from the parochial focus. It is that wrench that parochial interests often feel, which is reflected in some of the concerns that have come through in these requests for advice. The fact is that we cannot have our cake and eat it too. There is no point having a national scheme if we then try to preserve all the elements that previously existed in the state-based scheme. The advice that I received from the Minister for Health in response to this recommendation reads as follows —

> A Regional Board was considered preferable due to the relatively small number of registrants in WA and SA. The relatively small number of registrants, complaints/notifications and investigations can be handled by a single board.
>
> The Executive Officer of the Psychology Board of Australia has advised that the cost of 8 State and Territory Boards was estimated at around $320,000, whilst the cost of Regional Boards was initially estimated to be in region of $298,000.
>
> In the Board's most recent budget, Regional Boards are estimated to cost $285,000. Expected cost savings are therefore in the region of $35,000.
>
> Further savings may be made by the use of video and teleconference facilities where appropriate.

Again, I make the point that in moving to a national scheme, by definition there is an implication that we have to move away from the state-based scheme. In this context, whether they are called state or regional boards, instruments such as those discussed in these recommendations are effectively not so much state boards in the same sense as we have always accepted them; rather, they are subcommittees of a national board. It depends on whether we subsequently describe them as regional or state boards or however else one may describe them. I also advise that the committee finds that the bill is consistent with the national scheme as agreed to in the intergovernmental agreement.

I have been provided with a response to the recommendations in the standing committee's report on the Pharmacy Bill 2010. Having reviewed that material, it would be more convenient for the house if we were to reserve contemplation of that material until the point at which we will be discussing the clauses to which that material relates. That will give form and substance rather than a long monologue about a large number of recommendations. Having considered the recommendations, they are all of a specific nature and that is probably the most convenient way to go about it.

A large number of complex matters have to be contemplated before we establish the machinery for a national scheme. Members have alluded to some that merit further contemplation by this house. I have also alluded to

those matters and indicated that the government looks forward to further examination of those issues in the Committee of the Whole.

I again thank members for their indication of support for the second reading of the bills and ask that the house now adopt the motions.

Questions put and passed.

Bills read a second time.