

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 103

THURSDAY, 12 AUGUST 2010

1. Meeting of Council

The Council assembled at 10.00am pursuant to Temporary Orders.

The President, Hon Barry House, took the Chair and read prayers.

2. Petitions

Hon Matt Benson-Lidholm presented a petition, by delivery to the Clerk, [SO 130], from 40 petitioners requesting the Legislative Council oppose the removal of Year 11 and 12 students from 21 District High Schools across Western Australia. (Tabled paper 2340).

Hon Colin Holt on behalf of Hon Wendy Duncan presented a petition from 273 petitioners requesting the Legislative Council oppose Year 7 Dampier Primary School children relocating to High School. (Tabled paper 2341).

3. Ministerial Statement - Ellenbrook Bus Service

The Minister for Transport made a Ministerial Statement with respect to the introduction of improved bus services for the Ellenbrook community.

Ordered - That consideration of the Ministerial Statement be made an Order of the Day for the next sitting.

4. Papers

The following Papers were laid on the Table by -

President

Annual Reports -

Auditor General, Office of the (2009 - 2010) (Date received 11/08/2010)..... 2338

Minister for Environment

Leases -

CALM Lease No. 2270/100 - Between CALM and Hypermarket Pty Ltd -
Part Reserve No. 50325..... 2339

5. Joint Standing Committee on Delegated Legislation - Forty-First Report - Shire of Dardanup Standing Orders Local Law 2009

Hon Robin Chapple presented the Forty-First Report of the Joint Standing Committee on Delegated Legislation in relation to the *Shire of Dardanup Standing Orders Local Law 2009*. (Tabled paper 2342).

Hon Robin Chapple moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

6. Standing Committee on Environment and Public Affairs - Twentieth Report - Overview of Petitions

Hon Brian Ellis presented the Twentieth Report of the Standing Committee on Environment and Public Affairs in relation to the *Overview of Petitions*. (Tabled paper 2343).

Hon Brian Ellis moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

7. Standing Committee on Procedure and Privileges - Standing Orders Review - Extension of Reporting Time

The Leader of the House moved, without notice -

That the reporting date for the Procedure and Privileges Committee in relation to its inquiry into the Standing Orders of the House be extended to 7 September 2010.

Question - put and passed.

8. Government Health Workers - Wage Offer

Non-Government Business No. 1 having been called, Hon Helen Bullock moved, without notice -

That, in light of the massive increases to household bills including a 77 percent increase in electricity tariffs, a 40.35 percent increase in water rates and the 23 percent increase in gas prices, this House calls on the Government to increase its offer of an 8.25 percent pay rise to Government Health workers.

Debate ensued.

Motion lapsed pursuant to Temporary Orders.

9. Order of Business

Ordered - That Orders of the Day Nos 1, *Retail Trading Hours (Tourism Precincts and Holiday Resorts) Amendment Regulations (No. 2) 2009 - Disallowance*, and 2, *Shire of Dardanup Standing Orders Local Law 2009 - Disallowance*, be taken after Order of the Day No. 10, *Health and Disability Services Legislation Amendment Bill 2009*. (Leader of the House).

10. Cognate Debate - Health Practitioner Regulation National Law (WA) Bill 2010 and Pharmacy Bill 2010

The Minister for Transport representing the Minister for Health sought leave of the House to debate Order of the Day No. 4, *Health Practitioner Regulation National Law (WA) Bill 2010* and Order of the Day No. 6, *Pharmacy Bill 2010* cognately [SO 228].

Leave granted.

11. Health Practitioner Regulation National Law (WA) Bill 2010 and Pharmacy Bill 2010

The Orders of the Day having been read for the adjourned debate on the second reading of these Bills.

Debate ensued.

Questions - put and passed.

Bills read a second time.

The Deputy President left the Chair.

In Committee

(Hon Matt Benson-Lidholm in the Chair)

Health Practitioner Regulation National Law (WA) Bill 2010

Clauses 1 to 3 agreed to.

Clause 4.

The Minister for Transport representing the Minister for Health moved -

Page 3, line 5 — To delete “Schedule — ” and insert —

Schedule, as modified to give effect to subsections (5), (6) and (7) —

Page 3, after line 28 — To insert —

(5) In the Schedule section 3(3)(c) delete “and are of an appropriate quality.” and insert:

consistent with best practice principles.

(6) In the Schedule section 113(3) in the Table delete “medical practitioner” and insert:

medical practitioner, physician

(7) In the Schedule after section 141(4)(c) insert:

(da) the first health practitioner forms the reasonable belief in the course of providing health services to the second health practitioner or student; or

Debate ensued.

Amendments - put and passed.

Clause, as amended, agreed to.

Clauses 5 and 6 agreed to.

Clause 7.

The Minister for Transport representing the Minister for Health moved -

That consideration of clause 7 be postponed until after consideration of clause 247 of the Schedule.

Debate ensued.

Question - put and passed.

Clauses 8 to 126 agreed to.

Clause 127.

Debate ensued.

Clause put and negatived.

New Clause 127.

The Minister for Transport representing the Minister for Health moved -

Page 51, after line 1 — To insert —

127. Section 23 amended

- (1) In section 23(2)(a) delete “a pharmaceutical chemist” and insert:

a pharmacist

- (2) After section 23(3) insert:

- (4A) If the CEO gives a dentist, medical practitioner, nurse practitioner or pharmacist a notice pursuant to any regulations made under section 64(2)(ha), the CEO may give a copy of the notice to the National Board as defined in the *Health Practitioner Regulation National Law (Western Australia)* section 5 for the person’s health profession.
- (4B) Subject to this Act, a person who is a member of a prescribed class of endorsed health practitioner is authorised in the lawful practice of his or her profession to do any one or more of the following things in relation to a medicine as is prescribed in relation to the prescribed class —
- (a) possess;
 - (b) use;
 - (c) supply;
 - (d) sell;
 - (e) prescribe.
- (4C) The authorisation given by subsection (4B) is subject to —
- (a) such conditions and restrictions as may be prescribed; and
 - (b) any notice given by the CEO pursuant to any regulations made under section 64(2)(ha).

- (4D) If the CEO gives an endorsed health practitioner a notice pursuant to any regulations made under section 64(2)(ha), the CEO may give a copy of the notice to the National Board as defined in the *Health Practitioner Regulation National Law (Western Australia)* section 5 that endorsed the registration of the health practitioner.
- (4E) Subsection (4B) does not authorise a person to sell any poison in an open shop unless the person is licensed under this Act to do so.

New Clause agreed to.

Clauses 128 to 133 agreed to.

Clause 134.

The Minister for Transport representing the Minister for Health moved -

Page 55, lines 14 to 18 — To delete the lines and insert —

- (a) in paragraph (ha) delete “section 23(2) in relation to drugs of addiction or specified drugs or both;” and insert:

section 23(2) or (4B) in relation to a poison or medicine;

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 135 to 166 agreed to.

Schedule.

Hon Giz Watson moved -

Page 125, after line 27 — To insert —

- (4a) It is unlawful for a National Board to discriminate against an applicant on the ground of a spent conviction of the applicant. Section 22 *Spent Convictions Act 1988* applies.

Debate ensued.

Amendment - put and negatived.

Hon Giz Watson moved -

Page 171, line 7 — To insert before “drugs” —

other

Debate ensued.

Amendment - put and negatived.

The Minister for Transport representing the Minister for Health moved -

That further consideration of the Bill be postponed until after consideration of the *Pharmacy Bill 2010*.

Question - put and passed.

Pharmacy Bill 2010

Clause 1 agreed to.

12. Questions Without Notice

Questions without notice were taken.

The Minister for Environment tabled a report entitled *Montara Oil Disaster* (July 2010) by the Environmental Protection Authority, in response to a question without notice asked by Hon Sally Talbot. (Tabled paper 2344).

Point of Order

Hon Ken Travers raised the following Point of Order -

I understand that the rule with respect to answers is that Ministers can answer a question in whatever way they like. However, I wonder whether it starts to get to the point of misleading the House when a Parliamentary Secretary refers us in her answer to an answer to a previous question, when that previous answer did not answer the question but in fact actually asked us to ask the question again if we want that information. I wonder whether that is within the custom and practice of the House and whether it is not bordering on misleading the House. Therefore, I seek some guidance from you, Mr President.

President's Ruling

The President ruled as follows -

I am not privy to the information in front of me. On the surface it appears that there is no point of order, because whatever way the question may be answered, that is the answer. That does not mean that some people will like that answer. That does not mean that everybody has to agree with the answer. But that is the answer that is presented to the Parliament. But I will look at the documents the Member has referred to, and if my ruling on the point of order is any different I will notify the House.

The Minister for Energy representing the Minister for Education tabled documents in relation to funding for school upgrades announced in the State Budget, in response to question on notice No. 2507 asked by Hon Ken Travers. (Tabled paper 2345).

13. Health Practitioner Regulation National Law (WA) Bill 2010 and Pharmacy Bill 2010

The Orders of the Day for the further consideration of these Bills, in Committee, having been read.

The President left the Chair.

In Committee

(Hon Jon Ford in the Chair)

Pharmacy Bill 2010

Clause 2.

The Minister for Transport representing the Minister for Health moved, That progress be reported and leave asked to sit again at a later stage of this day's sitting.

Question - put and passed.

The President resumed the Chair.

The Deputy Chairman of Committees reported that the Committee had considered the Bill, made progress, and asked leave to sit again at a later stage of this day's sitting.

Ordered - That the Committee have leave to sit again at a later stage of this day's sitting.

14. Order of Business

Ordered - That Order of the Day No. 1, *Retail Trading Hours (Tourism Precincts and Holiday Resorts) Amendment Regulations (No. 2) 2009 - Disallowance*, be taken forthwith. (Leader of the House).

15. Retail Trading Hours (Tourism Precincts and Holiday Resorts) Amendment Regulations (No. 2) 2009 - Disallowance

Pursuant to SO 152(b) the following motion was moved *pro forma* by Hon Robin Chapple -

That the *Retail Trading Hours (Tourism Precincts and Holiday Resorts) Amendment Regulations (No. 2) 2009* published in the *Gazette* on 24 November 2009 and tabled in the Legislative Council on 25 November 2009 under the *Retail Trading Hours Act 1987*, be and are hereby disallowed.

Debate ensued.

Question - put and negatived.

16. Order of Business

Ordered - That Orders of the Day Nos 4, *Health Practitioner Regulation National Law (WA) Bill 2010*, and 6, *Pharmacy Bill 2010*, be taken forthwith. (Leader of the House).

17. Health Practitioner Regulation National Law (WA) Bill 2010 and Pharmacy Bill 2010

The Orders of the Day for the further consideration of these Bills, in Committee, having been read.

The President left the Chair.

In Committee

(Hon Jon Ford in the Chair)

Pharmacy Bill 2010

Clauses 2 to 70 agreed to.

Clause 71.

Hon Giz Watson moved -

Page 41, line 4 — To delete “, subject to subsection (5)” and insert —

if the officer knowingly authorised or permitted the contravention

Debate ensued.

Interruption pursuant to Temporary Orders.

The President resumed the Chair.

The Deputy Chairman of Committees reported that the Committee had considered the Bill, made progress, and asked leave to sit again.

Ordered - That the Committee have leave to sit again.

18. Members' Statements

Statements were taken.

19. Adjournment

The House adjourned at 5.58pm until Tuesday, 17 August 2010 at 3.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Adele Farina.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council