



Deputy Premier of Western Australia
Minister for Health; Indigenous Affairs

Our Ref: 25-14011

Mr Donald Allison
Clerk Assistant
Legislative Council
Parliament of Western Australia
Parliament House
PERTH WA 6005

Dear Mr Allison

Thank you for your letter of 5 July 2010 regarding the Report of the Standing Committee on Uniform Legislation and Statutes Review in relation to the *Health Practitioners Regulation National Law (Western Australia) Bill 2010* (WA Bill).

Please find attached a table that provides a response to the recommendations in the Report.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kim Hames', written over a horizontal line.

Dr Kim Hames MLA
DEPUTY PREMIER
MINISTER FOR HEALTH

4 AUG 2010

Att.

**Responses to Standing Committee on Uniform Legislation and Statutes Review
Health Practitioner Regulation National Law (WA) Bill 2010 from the Minister for Health**

| | Recommendation | Responses |
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| 1 | <p>The Committee recommends that clause 7 of the Health Practitioner Regulation National Law (WA) Bill 2010 be amended in the following manner:</p> <p>Page 4, line 19 - To delete 'The' and insert –</p> <p>(1) Except as provided in subsection (2), the</p> <p>Page 4, after line 27 - To insert –</p> <p>(2) Sections 41 and 42 of the Interpretation Act 1984 apply to regulations made under the Health Practitioner Regulation National Law (Western Australia).</p> | <p>This amendment, along with the amendments in recommendations 2, 3 and 4 would change the way the national law operates in Western Australia and could undermine the acceptance of WA as a Participating Jurisdiction.</p> <p>So that WA's participation is not put in jeopardy, the amendments should not be made at this time.</p> <p>However, the Minister for Health will take the Committee's view forward to 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.</p> <p>In the meantime, an amendment will be moved so that the Health Minister in Western Australia will be required to table in the Parliament of Western Australia any regulations made by the Ministerial Council.</p> |
| 2 | <p>The Committee recommends that clause 245 of Schedule 1 of the Health Practitioner Regulation National Law (WA) Bill 2010 (that is, the Health Practitioner Regulation National Law) be amended in the following manner:</p> <p>Page 233, after line 7 - To insert</p> <p>(3) Despite section 7(1)(d) of the Health Practitioner</p> | <p>The response to this recommendation is incorporated in the response to recommendation 1 above.</p> |

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| | <p>Regulation National Law (WA) Act 2010, sections 41 and 42 of the Interpretation Act 1984 apply to regulations made under subsection (1).</p> <p>Page 233, lines 8-10 - To delete the lines</p> <p>Page 233, lines 14-17 - To delete the lines</p> | |
| 3 | <p>The Committee recommends that clause 246 of Schedule 1 of the Health Practitioner Regulation National Law (WA) Bill 2010 (that is, the Health Practitioner Regulation National Law) be amended in the following manner:</p> <p>Page 233, after line 18 - To insert</p> <p>Note: Clause 246 of the Health Practitioner Regulation National Law does not form part of the Health Practitioner Regulation National Law in Western Australia.</p> <p>Page 233, lines 19-32 - To delete the lines</p> <p>Page 234, lines 1-4 - To delete the lines</p> | <p>The response to this recommendation is incorporated in the response to recommendation 1 above.</p> |
| 4 | <p>The Committee recommends that clause 247 of Schedule 1 of the Health Practitioner Regulation National Law (WA) Bill 2010 be amended in the following manner:</p> <p>Page 234, after line 5 - To insert</p> <p>Note: Clause 247 of the Health Practitioner Regulation National Law does not form part of the Health Practitioner Regulation National Law in Western Australia.</p> | <p>The response to this recommendation is incorporated in the response to recommendation 1 above.</p> |

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| | Page 234, lines 6-15 - To delete the lines | |
| 5 | <p>The Committee recommends that 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.</p> | <p>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:</p> <ul style="list-style-type: none"> ◦ 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 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). <p>The Minister for Health will take the Committee's view forward to 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.</p> |

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| 6 | <p>The Committee recommends 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.</p> | <p>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.</p> |
| 7 | <p>The Committee recommends that the Health Practitioner Regulation National Law (WA) Bill 2010 be amended in the following manner:</p> <p>Page 6, after line 21 - To insert</p> <p>12A Tabling of review under COAG Agreement</p> <p>The Minister is to cause a copy of the report of the review conducted under the COAG Agreement clause 14.1 to be laid before each House of Parliament as soon as practicable, and in any event not later than 6 months after the Ministerial Council receives the report.</p> | <p>Clause 12 of the Bill already requires that the Minister table a report in each House of Parliament after carrying out a review of the operation and effectiveness of the Act after 5 years.</p> |
| 8 | <p>The Committee recommends that the responsible Minister advise the Legislative Council</p> <p>(i) why the National Law provides for specialist recognition as well as endorsement of areas of practice,</p> <p>(ii) in what circumstances the National Scheme will consider one preferable to the other and</p> | <p>(i) 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</p> <p>(ii) The scheme has no preference for one over the other.</p> |

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| <p>(iii) the distinction between specialist recognition and endorsement of areas of practice</p> | <p>(iii) 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.</p> <p><u>There is very little practical distinction between specialist recognition and endorsement of areas of practice.</u></p> <p>Recognition of areas of specialty/endorsement</p> <p>The medical profession and the dentists division of the dental profession are specified in the National Law Act as areas where there MAY be <u>specialists</u>.</p> <p>Other areas where there MAY be <u>specialists</u> are approved by the Ministerial Council, on the recommendation of the relevant National Board.</p> <p>Areas where there MAY be <u>endorsement</u> are not specified in the National Law Act, but are approved by the Ministerial Council, on the recommendation of the relevant National Board.</p> <p>For <u>both</u>, Ministerial Council approves specific areas of specialty/endorsement on the recommendation of the relevant National Board.</p> <p>Use of titles</p> <p>Section 115 provides for restrictions on use by any person of</p> |
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| | | <p><u>specialist</u> titles with penalties up to \$30 000 for individuals and \$60 000 for corporate bodies.</p> <p>Section 118 provides for restrictions on claims by any person to be a <u>specialist</u> health practitioner with penalties up to \$30 000 for individuals and \$60 000 for corporate bodies.</p> <p>There are no equivalent specific provisions in relation to <u>endorsement</u>, 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.</p> <p>(Note this provides the same protection to specialists as well.)</p> |
| 9 | The Committee recommends that the responsible Minister 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. | 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. |
| 10 | The Committee recommends that the responsible Minister 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. | The Ministerial Council followed the WA approach. The seven areas reflect those currently in the WA Psychologists Act 2005 (s29(1)) and Psychologists Regulations 2007 (r7). Community psychology and health psychology are not currently recognised as areas of specialty in WA. |
| 11 | The Committee recommends that the responsible Minister | A Regional Board was considered preferable due to the |

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| | <p>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.</p> | <p>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.</p> <p>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 the region of \$298,000.</p> <p>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.</p> <p>Further savings may be made by the use of video and teleconference facilities where appropriate.</p> |
| <p>Find -ing 1</p> | <p>The Committee finds that the Bill is consistent with the national scheme as agreed in the Intergovernmental Agreement.</p> | <p>Noted.</p> |