

**STANDING COMMITTEE ON  
UNIFORM LEGISLATION AND STATUTES REVIEW**

**MEDICAL PRACTITIONERS BILL 2006**

**TRANSCRIPT OF EVIDENCE TAKEN  
AT PERTH  
WEDNESDAY, 5 DECEMBER 2007**

**SESSION THREE**

**Members**

**Hon Simon O'Brien (Chairman)  
Hon Matthew Benson-Lidholm  
Hon Donna Faragher  
Hon Sheila Mills**

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**Hearing commenced at 10.47 am****HEAD, MR ALEX**

**Assistant Parliamentary Counsel, Parliamentary Counsel's Office,  
141 St Georges Terrace,  
Perth 6000, sworn and examined:**

**BRIGGS, MS LISA**

**Senior Legal Adviser, Department of Health  
189 Royal Street,  
East Perth 6004, sworn and examined:**

**The CHAIRMAN:** I call the hearing to order, and on behalf of the committee I would like to welcome witnesses to our hearing. If I could ask, firstly, if you could state your full name, your contact address and the capacity in which you appear before the committee, please?

**Ms Briggs:** Lisa Mary Briggs, Senior Legal Adviser, Department of Health, 189 Royal Street, East Perth.

**Mr Head:** Alex Head, Assistant Parliamentary Counsel, Level 11, 141 St Georges Terrace, Perth. I was the drafter of the bill.

**The CHAIRMAN:** I will address this question to both witnesses. You have signed a document entitled "Information for Witnesses". Have you both read and understood the document?

**The Witnesses:** Yes.

**The CHAIRMAN:** If I could just introduce my colleagues: on my left, Hon Matt Benson, committee member; on my immediate left, Dr Colin Huntly, our committee legal advisory officer; on my right, another member in Hon Donna Faragher; and our committee clerk is Ms Jan Paniperis, whom you have met.

These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this hearing, for the record. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing - clear that packed public gallery there! Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that premature publication or disclosure of public evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege.

I will just indicate to witnesses, in accordance with a resolution of the house passed as recently as last night, we are now required to ask all witnesses to take an oath or affirmation. So if I could now ask, Jan, if you would swear in our witnesses, please.

[Witnesses took the affirmation.]

**The CHAIRMAN:** Could I ask either witness, possibly Ms Briggs first, if you would like to make a brief opening statement about the bill?

**Ms Briggs:** Yes; just some opening remarks about the background to part 5 of the bill, and part 5 is the reason why it has been referred to the committee. Part 5 gives effect to an agreement by the Australian Health Ministers' Conference in April 2006 as to a national portable registration scheme for medical practitioners. The purpose of the scheme is to facilitate movement between jurisdictions of medical practitioners. To be eligible for portable registration, a medical practitioner needs to be in a category of either general registration or specialist registration. The effect is that a medical practitioner who is eligible for portable registration does not need to pay a registration fee and they do not need to apply for registration in Western Australia. When the agreement was made by the Australian Health Ministers' Conference in relation to portable registration, Western Australia was drafting its Medical Practitioners Bill, hence why it was incorporated at that time.

That is really all I have to say in opening. I have prepared some answers in writing to the questions on notice 1.1 to 1.5, and my colleague Mr Head will provide the answer to 1.6. Would you like me to table those?

**The CHAIRMAN:** Thank you for those opening remarks and, yes, if you do have some answers to the questions of which notice was given, if you could table them now, please.

**Ms Briggs:** Yes; I table the questions on notice and the answers.

**The CHAIRMAN:** And, Mr Head, while we are at it, did you have something to table or were you going to verbally address the question when we come to it?

**Mr Head:** I have nothing to table. I do not think there is anything relevant I can say about item 1.6, because there is nothing in any other jurisdiction that was adopted when I was drafting the bill.

**The CHAIRMAN:** The question posed at 1.6, as shown on the tabled document - and I will address it to Mr Head, in case you have any comment - was this -

Has the different legislative drafting style exhibited in the various jurisdictions presented any challenges for PCO in the drafting of this Bill? Are these likely to materially affect the way in which judicial commentary on the Bill and its interstate counterparts can be interpreted and applied across jurisdictions?

If you could respond to the tenor of that question, please?

**Mr Head:** Well, there are no interstate counterparts at present, and there were certainly none when I drafted the bill.

**Hon DONNA FARAGHER:** So is our state the first state to have implemented?

**Mr Head:** Yes, that is correct.

**Hon DONNA FARAGHER:** Okay.

**The CHAIRMAN:** Is it possible, then, that there might be some material effects in the way the bill is interpreted once other states have legislated?

**Mr Head:** That would depend entirely on how they choose to implement the scheme, if they do so.

**The CHAIRMAN:** We have a copy of the intergovernmental agreement. When would we expect other signatories to that agreement to be legislating?

**Ms Briggs:** The agreement was reached by the Australian Health Ministers' Conference. It was very simply recorded in four lines - the agreement - and that was in 2006. Because of when we were drafting our bill and the agreement occurred, we were able to incorporate it. We do not have an expectation as to when other jurisdictions will incorporate it. If I could just draw your attention to my response to 1.4, and that is because -

Subsequent to the portable registration scheme being agreed to by the Australian Health Ministers' Conference, the Council of Australian Governments agreed on the arrangements for a new national system for the registration of health professionals and the accreditation of

their training and education programs . . . This national registration scheme encompasses more health professional groups and aspects of regulation than the portable registration scheme. While work is being progressed on the arrangements for a national registration scheme, the portable registration scheme is on hold.

However -

Part 5 remains in the Bill, because it provides a legislative opportunity to include a portable registration scheme. Further, the retention of Part 5 of the Bill (which may or may not become operational) will not affect the operation of the remainder of the Bill. This is because Part 5 will not come into operation until a corresponding law in another State or Territory is prescribed by the regulations to be a corresponding law for the purposes of the Bill (for example, *Medical Practice Act 1992* (NSW) could be prescribed as a corresponding law under Western Australian regulations.)

If I could just add one more sentence to that answer, and that is, “Because of the recent federal election, the national registration scheme is also, I think it would be fair to say, on hold at this moment in time.”

**The CHAIRMAN:** So the major national or intergovernmental scheme reflecting an intergovernmental agreement is yet to really arrive, is it not?

**Ms Briggs:** Yes.

**The CHAIRMAN:** And that is not what part 5 is about; it is, as you have just indicated by drawing our attention to this answer -

**Ms Briggs:** Yes; it is a more limited scheme to enable practitioners to move from jurisdiction to jurisdiction.

**The CHAIRMAN:** When do you think there might be an actual intergovernmental agreement?

**Ms Briggs:** It is being managed by the Department of the Premier and Cabinet, obviously, so they have been running the national registration scheme, so I am not sure.

**The CHAIRMAN:** So the actual agreement that is reflected in part 5 of the bill before us is actually a very limited one, probably reflected by some notes of an agenda item at the Australian Health Ministers’ Conference back in April 2006, in essence?

**Ms Briggs:** Yes.

**The CHAIRMAN:** So, significantly, this bill is really a consolidation and updating of a whole range of other matters related to medical practice?

**Ms Briggs:** Exactly. It is an 1894 act, yes, which has been modernised.

**Hon MATT BENSON-LIDHOLM:** Can I ask a question in relation to the significance of the involvement of New Zealand in the portable medical registration scheme? Could you just outline some elements of their involvement? How? Why? What sort of contributions could be forthcoming from New Zealand in this regard? Are there jurisdictional constitutional issues with their involvement or -

**Ms Briggs:** No, we do not expect there will be any constitutional issues. New Zealand are involved, my understanding is, because in the current Medical Act 1894 there is a reference to Australian or New Zealand qualifications, is my recollection.

**Hon MATT BENSON-LIDHOLM:** Right.

**Ms Briggs:** And that is why then you see why that is a standard provision, if you like, so people who have qualifications from Australia and New Zealand are accepted as having the appropriate qualifications for general registration, so we do not see there will be any constitutional issues.

**Hon MATT BENSON-LIDHOLM:** Okay; thank you.

**Mr Head:** Part 5 would not apply to New Zealanders, because the definition of “corresponding law” means the law of another state or a territory; it does not include another country.

**The CHAIRMAN:** I think for our purposes we have probably got sufficient information now to enable us to report back to the house. We will await a true national system reflecting an intergovernmental agreement in the future, but for now I think we can thank our witnesses for their advice and the information they have brought to us. Are there any closing remarks you feel necessary to offer at this stage?

**Ms Briggs:** No, I do not have any closing remarks.

**Mr Head:** No, I do not have any more to say.

**The CHAIRMAN:** In that case, I will thank you once again and bid you a good morning.

**Hearing concluded at 11.01 am**