



**PREPARED DEBATE SPEECH **UNDELIVERED****

***Sandy Bolton, MP for Noosa***



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## **Health Practitioners Regulation National Law and Other Legislation Amendment Bill 2022**

### **Sandy Bolton MP Member for Noosa**

As elected officials, we should be doing all we can to protect patients from those who stray from their obligations as health practitioners.

Striking the right balance between protecting patients and ensuring the freedom to undertake healthcare appropriately is what this legislation should achieve.

The Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2022 is complex and will amend the Health Practitioners National Law. The purpose of the National Law is to ensure that only health practitioners who are suitably trained and qualified to practise in an ethical and competent manner are registered to practise.

A number of constituents who have contacted me are confused, as well as deeply concerned that this Bill will not just change the law in Queensland, it will throughout Australia.

This because it was established under the Intergovernmental Agreement for a National Registration and Accreditation Scheme for the Health Professions in 2008, where the Commonwealth and the States and Territories agreed to create one, consistent regime across all of Australia.

To explain further. To ensure one consistent law across Australia, each State or Territory (except WA with a slightly different system) has passed a law that Applies the “National Law” as law in that State or Territory. Where is this National Law? In this case the agreed host of the National Law is Queensland, and the law is set out in a schedule to the Queensland Health Practitioner Regulation National Law Act 2009.

This Bill sets out to amend the National Law schedule to that Act, and when it does it will come into effect straight away in every other State and Territory (exempt WA which, as I stated, has a slightly different system).

Key reforms outlined in the Bill will provide more extensive powers for national regulators to enforce the National Law, including interim prohibition orders to prohibit or restrict unregistered practitioners and improved processes by which National Boards make registration decisions.

The Health and Environment Committee’s report on this Bill recommended this Bill be passed, with Statements of Reservation recording underlying concerns.

These included that allowing a Public Statement to be issued before an investigation will impinge on natural justice and that the Bill will allow testimonial advertising despite it being almost unanimously opposed by stakeholders.

In addition, that the Bill puts too much power in an unelected body, one that has had its decisions previously overturned by the courts. This is exacerbated by overly broad guiding principles that give too much power to the regulator.

There is a key issue with this Bill - the insertion of a new 'paramount principles' into the guiding principles of the National Law, and one that has seen opposition from our community.

These apply to decisions about accreditation standards, registration and de-registration decisions and decisions to take actions against a practitioner. These new paramount principles sit above all the other principles and requires decision makers to take into account:

- (a) protection of the public; and
- (b) public confidence in the safety of services provided by registered health practitioners and students.

It is this second principle that is problematic for it is based not on any objective measure but rather public perceptions, and as we know , public perception can be right, as well as wrong, and the assessment of them is very subjective.

Key stakeholders, as well everyday Queenslanders raised issue with this change.

The Australian Medical Association said that “the amendment is unnecessary and will not help the operation of the scheme” and that “if there is a conflict between protecting the public (or being seen to protect the public) and imposing restrictions on practitioners, protecting the public will win – even if the risk is trivial or the public perception is unfounded”<sup>1</sup>.

The Australian Dental Association Queensland stated they “[do] not support “public confidence” as a “paramount” guiding principle for

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<sup>1</sup> Australian Medical Association Submission to Health and Environment Committee, page 3 and 4.

decision making as this can impact health practitioner's rights, including their rights to practice"<sup>2</sup>.

Chair of the Australian Doctors Federation stated that "in Medicine guidelines are just that; guidelines. Clinicians need to assess each individual patient in light of evidence, guidelines and the circumstances of the patient. As patients become older and more complex and complicated in their care needs, it is not uncommon for multiple guidelines to apply and sometimes guidelines are in conflict and therefore in need of prioritising."

The Committee report on the bill states that the Bill was developed with extensive consultation, however only identifies three forums in 2017, one paper in 2018 (both before the pandemic) and a release to some stakeholders of the draft Bill last year.

Consequently, it appears that there has been no open public consultation during or after the pandemic and given it has been an intense and exceptional period of time, this is not appropriate for such instrumental changes to the regulation of the medical profession.

Such an important change should not be introduced with opposition by key stakeholders in the medical profession, nor without much more extensive consultation with Queenslanders.

For many Noosa residents, to them their doctors are trusted to do as what is right by them the patient, not by Government or 'public confidence'.

And that this particular new principle is in direct contrast to the important, intimate and trusting relationship that must exist between doctor and patient as part of healing, and overall wellbeing.

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<sup>2</sup> ADAQ Submission to Health and Environment Committee, page 2.

For many, their doctor is their only confidante, and to put a question mark around the commitment their doctor must have to their patients specific needs, is seen as wrong in all ways.

It is not advancing medicine and safety, nor is it moving away from subjective assessments to those based on scientific findings, which is being sought in multiple realms. This includes in the diagnosis and treatment of mental illness to ensure the billions of dollars being spent by governments leads to discernible improvements to Queenslanders.

In closing I thank our local GP's and all of our healthcare professionals in my own electorate and across QLD for the incredible, often selfless job that you do.

I thank the Committee, their secretariat and all who worked on this Bill, as well submitters and attendees to hearings. However, for the reasons I have outlined, I cannot support this Bill without amendments to remove the specific new principle as highlighted.