

SECOND READING SPEECH

Health Practitioners Tribunal Bill 2010

Mr Speaker

Recently the House considered and approved the *Health Practitioner Regulation National Law (Tasmania) Bill 2010*: a Bill to enable Tasmania to be part of the National Registration and Accreditation Scheme for health professions.

During debate on that Bill, I foreshadowed that I would soon be tabling a Bill to establish a Health Practitioners Tribunal for Tasmania. I am pleased to present that Bill to the House today.

The Inter-Governmental Agreement signed by jurisdictions to establish the national scheme provided that:

“The hearing of serious disciplinary matters (those which may result in suspension or cancellation of registration) will be undertaken by an entity external to the agency, which will also be responsible for the hearing of appeals against less serious disciplinary matters where internal review has not resolved the matter.

It will be the responsibility of each State and Territory to determine which entity in their particular jurisdiction (in accordance with national criteria agreed by AHMC) will be responsible for the hearing of these matters.

However, to ensure national consistency, the legislation to establish the national scheme will specify common processes, findings and determinations that can be made.”

In July 2009, the Department of Health and Human Services published a discussion paper entitled “National Registration and Accreditation Scheme for Health Professions Tasmanian Disciplinary and Review Body Discussion Paper”. The paper sought submissions in relation to the structure and constitution of the Tribunal.

Overwhelmingly, the submissions called for a stand-alone Tribunal with jurisdiction to hear referrals of disciplinary and complaint matters as well as review of decisions made by national boards.

The *Health Practitioners Tribunal Bill* establishes the Health Practitioners Tribunal and vests it with power necessary to hear and determine disciplinary matters and reviews of decisions made under the Health Practitioner Regulation National Law (Tasmania).

Currently, each of the 10 health profession registration Acts sets out disciplinary procedures for each individual profession. These procedures can differ significantly. In some professions, formal tribunals are established to hear and determine complaints, while for other, informal investigation committees are established.

The tribunal established by this Bill will streamline complaints procedures for each of the professions. There will be a single adjudicative body to hear complaints against practitioners from each of the 10 health professions.

The establishment of single, stand-alone tribunal also means that a disciplinary matter is heard by a body that is at arms length from the registration board. Currently, appointments to a disciplinary committee are made by the board responsible for prosecuting a practitioner.

For practitioners, this Tribunal will mean greater consistency and less potential for perceived bias.

The Tribunal will also hear reviews of decisions of the National Boards. Under the current Acts, such reviews are heard by the Supreme Court. The Tribunal will provide a more accessible review mechanism for practitioners.

This model of Tribunal brings Tasmania into line with most mainland States which, for some time, have had single administrative tribunals to deal with complaints against health practitioners as well as hearing appeals against decisions made by registration bodies.

The Tribunal is to be presided over by a Chairperson and a Deputy Chairperson, who will be Magistrates, appointed by the Minister for Justice following a recommendation of the Chief Magistrate.

While the Tribunal is capable of being constituted by the Chairperson or the Deputy Chairperson alone, the Bill provides for a panel to be convened where appropriate. In matters where the interests of justice are best served by peer review into the conduct of a health practitioner, the Tribunal may be constituted with professional members. The Tribunal will also be able to appoint a community representative in appropriate cases to consider the interests of consumers.

The Bill gives the Tribunal wide ranging powers to gather appropriate evidence. Similar to a Court, the Tribunal will have powers to call witnesses, issue summons and call experts. It is empowered to expeditiously, cost effectively and with as little formality as possible determine applications made to it.

The Tribunal will be given broad discretion to award costs in appropriate circumstances. Consistent with similar Tribunals in other jurisdictions, the Tribunal will also have the power to order costs against a representative acting on behalf of a party to proceedings, where the Tribunal is of the opinion that the representative is responsible for unnecessarily disadvantaging another party.

Importantly, decisions of the Tribunal are to be given judicial notice and may be filed and enforced as if they were an order of the Supreme Court.

Consistent with the existing health practitioner registration Acts, a decision of the Tribunal is appealable on a question of law to the Supreme Court.

I commend the Bill to the House.