

Community Affairs Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

HEALTH AND AGEING PORTFOLIO

Health Practitioner Regulation (Consequential Amendments) Bill 2010

30 April 2010

Question no: 1

OUTCOME 12: Health Workforce Capacity

Topic: HEALTH PRACTITIONER REGULATION (CONSEQUENTIAL AMENDMENTS) BILL

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Senator Boyce asked:

“The evidence we had this morning from the Consumers Health Forum included the fact that the community representatives, who are perceived as strengthening public interest, have signed confidentiality agreements. Is that true?”

Answer:

A full-day induction program was held on 19 September 2009 for members of the ten inaugural National Boards. At this meeting members were provided with the Code of Conduct for Board members and issues related to good governance were discussed, including confidentiality and conflict of interest.

Furthermore, section 53 of the *Health Practitioner Regulation (Administrative Arrangements) National Law Act 2008* (Act A) provides for duty of confidentiality whereby:

(1) A person who is, or has been, a person engaged in the administration of this Law must not disclose to another person protected information.

Maximum penalty — \$3,000.

(2) However, subsection (1) does not apply if the information is disclosed—

(a) in the exercise of a function under, or for the purposes of, this Law; or

(b) for the purposes of a legal proceeding; or

(c) as authorised or required by any law of this or any other participating jurisdiction; or

(d) as otherwise authorised by the Ministerial Council.

(3) In this section—

protected information means information that comes to a person’s knowledge in the course of, or because of, the person’s engagement in the administration of this Law.

Under Act A, section 54 provides for protection from personal liability whereby:

- (1) A protected person is not personally liable for anything done or omitted to be done in good faith—
 - (a) in the exercise of a function under this Law; or
 - (b) in the reasonable belief that the act or omission was the exercise of such a function.
- (2) Any liability resulting from an act or omission that would, but for subsection (1), attach to a protected person attaches instead to the National Agency.
- (3) In this section—

protected person means any of the following—

 - (a) a member of the Agency Management Committee;
 - (b) a member of a National Board or a committee of the National Board;
 - (c) a member of staff of the National Agency;
 - (d) a consultant or contractor engaged by the National Agency.

Act A will remain in force until repealed by the *Health Practitioner Regulation National Law Act 2009*, known as the National Law in participating jurisdictions, on 1 July 2010.