Legislative Council (2019-05-02)
Classification: Bills

HEALTH CARE (GOVERNANCE) AMENDMENT BILL

Introduction and First Reading

The Hon. S.G. WADE (Minister for Health and Wellbeing) (16:36): Obtained leave and introduced a bill for an act to amend the Health Care Act 2008 and to make related amendments to the Mental Health Act 2009. Read a first time.

Second Reading

The Hon. S.G. WADE (Minister for Health and Wellbeing) (16:37): I move:

That this bill be now read a second time.

Today, I rise to introduce the Health Care (Governance) Amendment Bill 2019 into parliament. In July last year, parliament considered amendments to the Health Care Act 2008 to establish governing boards for the local health networks. These governing boards will be responsible for the delivery of local health services within their geographic area. The governing boards will consult with local service providers and the community to ensure that the services provided are reflective of local needs and priorities and are able to be provided within the resources available. Governing boards will be required to operate within a clinical governance framework to ensure that these services are safe, high quality and accessible.

The governing boards will also be responsible for the oversight of local health network budgets. The governing boards will appoint their chief executive officer, who will be responsible for managing the operations and affairs of the local health network services and will be accountable and subject to the direction of the governing board.

The governing board will be accountable to the Minister for Health and Wellbeing for the oversight of the delivery of health services in accordance with a service agreement negotiated between the local health network and the Department for Health and Wellbeing. The governing boards will also be required to comply with any policy frameworks issued by the department and any directions given by the Minister for Health and Wellbeing.

The governing boards, through the annual report for the local health network, will demonstrate their progress against the key performance indicators outlined in the service agreement and what measures they have instituted to ensure the engagement of communities and health professionals in service delivery. The earlier bill was the first stage of the government delivering on its election commitment to devolve decision-making in the public health system to the local level. This will ensure that decisions are made as close as possible to the area and people affected and with the full involvement of local health professionals.

Following the passage of the bill, chairpersons for the 10 governing boards were appointed. I am pleased to inform parliament that members for the transitional governing boards were appointed on 28 March 2019, resulting in a high calibre of individuals to assume responsibility for the oversight of the local health networks from 1 July 2019. Since their appointment, the board chairpersons have been working with the Department for Health and Wellbeing on the governance and accountability framework for the public health system, resulting in the bill before parliament today. This bill amends the Health Care Act 2008 to:

- revise the functions of the chief executive of the Department for Health and Wellbeing;
- include provisions for service agreements between the chief executive of the Department for Health and Wellbeing, the local health networks and the Ambulance Service to dissolve the Health Performance Council once the commission on excellence and innovation is established;
- to make provisions for the annual reporting and transfer of assets for the metropolitan governing councils that will be dissolved on 1 July 2019; and
- to make minor amendments to the sections of the act to reflect the new governance and accountability framework for the public health system or clarify their intent.

I will now address the key amendments outlined in the bill. For those minor amendments, I will outline the policy intent for the benefit of members in committee.

The chief executive of the Department for Health and Wellbeing is currently responsible for the administration of the public health system. As I previously outlined to parliament, the public health system is too large and complex for all authority and accountability to rest on one person to manage an expenditure budget of more than $6 billion, approximately 32,100 full-time equivalents and around 77 hospitals and health services across the state. But this is the situation since the former Labor government abolished hospital boards in 2008.

With the governing boards now being responsible for the oversight of local health services in their geographic area, the role of the chief executive of the Department for Health and Wellbeing will change to focus on the strategic direction and performance of the public health system. This is outlined in the new functions proposed for the chief executive of the department as the system manager of the public health system.

Inherent in this role is the ability of the chief executive to enter into service agreements with the local health networks that will outline performance measures and operational targets for the provision of health services. The chief executive will be able to take remedial action or issue directions where these measures or targets are not met.

The ability of the chief executive to issue statewide service plans will also contribute to the governance of the public health system and serve as a means of achieving integration and coordination across the system. The amendments proposed to the role of the chief executive will ensure that their role, and that of the governing board and the chief executive of the local health network, is clear to avoid duplication or omission.

The bill formalises the service agreements between the chief executive of the Department for Health and Wellbeing and the local health networks. Service agreements have been in place through administrative arrangements for a number of years. However, as the governing boards will now be required to manage the performance of their local health network against the performance measures in the service agreement, it is proposed to formalise these arrangements. The service level agreements will be made available to the public, providing transparency in how the local health network will be funded and managed. This will bring South Australia in line with other jurisdictions.

The bill also includes provisions for the dissolution of the Health Performance Council. The Health Performance Council was established in 2008 when local hospital boards were abolished and authority and accountability for the public health system became the responsibility of the chief executive of the department. The functions of the Health Performance Council, as outlined under the Health Care Act 2008, include advising the minister on the performance of the health system; health outcomes, including for specific population groups; and the effectiveness of community and individual engagement.

As outlined in *Hansard* in 2007-08, it is understood the intention was that, in effect, the Health Performance Council would act as a 'watchdog' on centralised management and decision-making. Under the new decentralised governance arrangements, there will be increased scrutiny and monitoring of health system performance, with the governing boards accountable to the minister and subject to performance monitoring by the department through service agreements.

The governing boards will be accountable to the minister for monitoring the performance of their local health network. The boards also have legislative obligations to develop and publish clinician and consumer and community engagement strategies. Requirements for the development of these strategies include consultation and anything prescribed by regulation. It is anticipated that the effectiveness of these strategies will be subject to scrutiny from local communities invested in their development and at each new level of governance within the public health system.

The role of the department will also change under the new governance arrangements. This will be through a robust and transparent performance framework through the service agreements. The chief executive will no longer have direct accountability and responsibility for the overall management, administration and provision of public health services. The chief executive will instead play a role in monitoring the performance of those who are accountable for the delivery of services. The chief executive's functions will include overseeing, monitoring and promoting improvements in the safety and quality of health services, monitoring performance, and receiving and evaluating performance and other data in relation to the whole of the public health system.

In addition, the government is committed to establishing a commission on excellence and innovation in health. The commission is currently in the design phase and is expected to have key functions that overlap with or duplicate those currently undertaken by the Health Performance Council. The broad remit of the commission will be to provide leadership

and advice on clinical best practice, with a focus on maximising health outcomes for patients, monitoring performance, and supporting clinical collaboration.

Since the initial establishment of the Health Performance Council, the health system has evolved significantly, with an increased focus on transparency in health system performance reporting and monitoring. For example, patient safety reports and hospital dashboards are published on the SA Health website and provide easy access to up-to-date data and information about how the state's public health system is performing in a range of areas. Adoption of the nationally agreed National Safety and Quality Health Service Standards, including the Open Disclosure Framework, has also strengthened transparency within the health system by monitoring health system governance and mandating open communication and support for patients who have experienced adverse events during health care.

In addition, some of the functions of the Health Performance Council now duplicate state and national reporting systems. Transparency of health service performance at a national level has been substantially increased under the National Health Reform Agreement. The national reporting frameworks, through the recently agreed Australian Health Performance Framework, enable both consumers and health system planners to benchmark the performance, quality and efficiency of health services at a national level. Further work is currently underway at a national level to establish secure and comprehensive arrangements for integrating data across patient journeys to support better planning and decision-making by governments, clinicians, consumers and researchers.

National data is now publicly reported through a range of mechanisms. The Productivity Commission's Report on Government Services provides detailed information on the equity, efficiency and effectiveness of service provision and achievement of outcomes for the primary and community health, ambulance, public hospital and mental health management service systems. The Australian Institute for Health and Welfare's MyHospitals and MyHealthyCommunities platforms publicly report comparable information about hospital performance and healthcare services across individual hospitals and jurisdictions, in formats that are easily accessible to consumers and members of the public.

Further, the Australian Commission on Safety and Quality in Health Care publicly reports on variations in health care through its Australian Atlas of Healthcare Variation Series to ensure public accountability and transparency and drive national improvements in patient safety. Given these reporting and accountability mechanisms and the decentralisation of the public health system, it is proposed to dissolve the Health Performance Council at a later time, following the establishment of the commission on excellence and innovation in health. There will be clear governance arrangements for the public health system to ensure that there is no overlap in roles and responsibilities between entities.

The bill also proposes to dissolve the metropolitan governing councils, which were set up as health advisory councils under the Health Care Act 2008, that were created for each of the metropolitan local health networks. These councils previously acted in an advisory role for the LHN and their role will be subsumed within the role of the governing boards from 1 July 2019. There will be no change to any other health advisory council established under the Health Care Act.

The bill is a fulfilment of a clear commitment of the Marshall Liberal government to decentralise the public health system. Establishing governing boards provides the opportunity to establish local accountability, responsibility and decision-making for local health services closer to where they are delivered. This will achieve better health decisions tailored to local needs and deliver a safe, high quality and financially sustainable health system into the future.

This government looks forward to working with communities, clinicians and stakeholders to deliver strengthened governance and better health services for all South Australians. I commend the bill to the house.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Health Care Act 2008*

4—Amendment of Long title

This clause amends the Long title of the principal Act to remove the reference to the Health Performance Council.

5—Amendment of section 3—Interpretation

This clause amends section 3 of the principal Act to delete the definition of *HPC*.

6—Amendment of section 7—Chief Executive

This clause amends section 7 of the principal Act to substitute a number of the Chief Executive's functions.

7—Repeal of Part 3

This clause deletes Part 3 of the principal Act.

8—Insertion of Part 4A

This clause inserts Part 4A, which establishes a requirement for each incorporated hospital and SAAS to enter into a service agreement with the Chief Executive in relation to the provision of health services.

Part 4A—Service agreements

28A—Preliminary

28B—Service agreement with Chief Executive

28C—General provisions about service agreements

9—Amendment of section 29—Incorporation

This clause inserts proposed subsection (7) and (8) into section 29 of the principal Act to enable the Minister to transfer an asset, right or liability acquired by the Minister under subsection (6) of the principal Act to any of the entities listed in inserted subsection (7)(a) to (d).

10—Amendment of section 33A—Engagement strategies

This clause amends section 33A of the principal Act (as inserted by the *Health Care (Governance) Amendment Act 2018*) to provide for 3 yearly reviews of a strategy that the governing board of an incorporated hospital must develop.

11—Amendment of section 33B—Composition of governing boards for incorporated hospitals

This clause amends section 33B of the principal Act (as inserted by the *Health Care (Governance) Amendment Act 2018*) to alter the cases in which a person is not eligible for appointment to the governing board for an incorporated hospital.

12—Amendment of section 33D—Disclosure of pecuniary or personal interest

This clause deletes section 33D(8)(a) from the principal Act (as inserted by the *Health* Care (Governance) Amendment Act 2018).

13—Amendment of section 33E—Chief executive officer for incorporated hospital

This clause amends section 33E (as inserted by the *Health Care (Governance) Amendment Act 2018*) to provide that the governing board of an incorporated hospital cannot give a direction concerning the clinical treatment of a particular person.

14—Amendment of section 34—Employed staff

This clause inserts subsection (8a) to provide that no direction may be given by the governing board of the incorporated hospital to the chief executive officer relating to the appointment, transfer, remuneration, discipline or termination of a particular person if the CEO of an incorporated hospital is designated as an employing authority or a power or function of an employing authority is delegated to the CEO of an incorporated hospital.

15—Amendment of section 50—Management arrangements

This clause amends section 50(4) to provide that the CE cannot give a direction concerning the clinical treatment of a particular person.

16—Amendment of section 93—Confidentiality

This clause amends section 93 to make it clear that any obligation about confidentiality does not prevent a person from disclosing information in connection with the management or administration of the Department as well as a hospital or SAAS.

17—Repeal of section 101

This clause deletes section 101.

18—Repeal of Schedule 1

This clause repeals Schedule 1 of the principal Act, which establishes the governance arrangements of HPC.

19—Amendment of Schedule 2—Health Advisory Councils

This clause makes a consequential change to Schedule 2 to delete a reference to the HPC.

20—Amendment of Schedule 3—Governing boards for incorporated hospitals

This clause amends Schedule 3 of the principal Act (as inserted by the *Health Care (Governance) Amendment Act 2018*) to make changes to provisions concerning the governing boards for incorporated hospitals.

21—Insertion of Schedule 3A

This clause inserts Schedule 3A, which provides for the dissolution of the Health Advisory Councils listed in Schedule 3A, clause 2.

Schedule 3A—Dissolution of Health Advisory Councils

22—Amendment of Schedule 4—Transitional provisions

This clause amends Schedule 4 to dissolve the HPC and to provide for any related transitional arrangements on the dissolution of the HPC.

41A—Health Performance Council dissolution

Schedule 1—Related amendments to *Mental Health Act 2009*

1—Amendment of section 106—Confidentiality and disclosure of information

This clause makes related amendments to the confidentiality provision of the *MentalHealth Act 2009*.

Debate adjourned on motion of Hon. I.K. Hunter.

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