



Minister for Health and Wellbeing
Minister for Higher Education
Minister for Medical and Health Research
Minister for Transport
Minister for Vocational Education and Skills
Member for Yerrabi

Mrs Giulia Jones MLA
Chair
Standing Committee on Justice and Community Safety
(Legislative Scrutiny Role)
scrutiny@parliament.act.gov.au

Dear Mrs Jones

Thank you for Scrutiny Report 26 of the Standing Committee on Justice and Community Safety (Legislative Scrutiny Role), and your comment on the *Health Practitioner Regulation National Law* (the National Law) – *Health Practitioner Regulation National Law Regulation 2018* (No 166/2018) (the Regulations) regarding proper and effective scrutiny of subordinate legislation.

As you point out in the Report, section 246 of the National Law requires each jurisdiction to table Regulations according to the relevant law in the jurisdiction. If the Regulations are not tabled, they are taken to have been tabled in the jurisdiction's Parliament, on the first sitting day after the jurisdiction's law required the regulation to be tabled.

This provision in the ACT legislation which established the National Law in 2010, was designed to ensure national consistency, not to circumvent proper scrutiny. Each jurisdiction's Parliament passed adopting or corresponding legislation to allow the National Law to operate. The mechanism of mirroring the host jurisdictions' legislation was to recognise the sovereignty of the States and Territories, and did not refer powers to the Commonwealth.

The ACT Assembly considered the Explanatory Statement of the *Health Practitioner Regulation National Law (ACT) Bill 2009*. In particular, the Explanatory Statement included a discussion of the adoption and application of national legislation by all jurisdictions. Consideration of the issue of 'abrogating the rights of Parliaments' was discussed, as the law included pre-determined legislative provisions based on an agreement between governments.

The National Law model was considered the only viable option to achieve the objectives of implementing the National Registration and Accreditation Scheme for health practitioners (NRAS), improving the efficiency and consistency of the health workforce, and improving safeguards for the public. Prior to any amendments to the National Law or Regulations, consultation is conducted

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across all jurisdictions, including consideration by the Council of Australian Governments Health Ministers.

I note nature of the National Law has been raised by the Scrutiny Committee in the past. Concerns raised went to the lack of Explanatory Statement and Tabling Statement. Advice from the ACT Parliamentary Counsel's office was that an Explanatory Statement is not required in tabling of the National Law amendments. These were however provided, and will continue to be provided as a courtesy to facilitate the Assembly's scrutiny of legislation.

The National Law and the Australian Health Practitioner Regulation Agency, which administers NRAS, ensures that those objectives continue to be met to deliver high quality health care for the ACT community.

Thank you for bringing this matter to my attention.

Yours sincerely

Meegan Fitzharris MLA
Minister for Health and Wellbeing