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Mr MORRIS (Mornington) — I was interested in some of the earlier comments from the member for Macedon who suggested that it was helpful to have parties of the same political persuasion in government at federal and state level to put these things through. Then she went on to say that the initiative for the national law came from the commonwealth government in 2005 which, if memory serves me correctly, was a coalition government. So the coalition certainly has a part in getting this scheme established.

Essentially we are dealing with five pages of Victorian legislation — and one of those pages is blank — together with the incorporated appendix of 236 pages of legislation enacted by the Parliament of Queensland. So there are seven clauses to enact legislation which will create a national law. It is certainly harmonisation writ large!

The legislation will establish a structure for the National Registration and Accreditation Scheme for the Health Professions. At the top of the pile is a ministerial council and underneath that is an advisory council. Then there are national boards with national committees and subsidiary state and territory boards, committees and panels, and the agency management committee with a national office and state and territory offices.

There has been argument, for which I have some sympathy, that in agreeing to this legislation, we are handing over our sovereignty in the regulation of health practitioners. There is widespread support for the process among the professions, albeit with some reservations. Given that view, as I am sure the member for Caulfield in her encore performance mentioned, the coalition will not be opposing the bill.

I want to express my concern, though, with the process, I'm not saying this is an awful process and we need to do it again, but every time we do something like this we chip away unnecessarily at the integrity of the state government in the sense of the whole and the integrity of the Parliament as a whole. I am sure there is a better way for us to deal with this problem without selling our souls in the process.

The legislation flows from a decision of the Council of Australian Governments back in May 2008. To the best of my knowledge, at the time there was little or no comment about it. There may have been a press story here and there but there was certainly no great debate. I do not recall any election promises from the current government to implement the legislation for the scheme. Given that I am not a health professional or a health administrator and I have no direct experience in the area, and given the

concurrence of the professions with the plan, I want to concentrate on just a couple of areas which are more about the principles of the thing than the detail.

The first is the issue of privacy. The second is the difficulties of template legislation and the third point is the impact on our ability to control subordinate legislation and on some of our other acts.

Prior to consideration of this bill, the Scrutiny of Acts and Regulations Committee received a submission from Dr Anthony Bendall, the deputy privacy commissioner. He raised a number of issues, particularly concerning the criminal history checks and the use that may be made of those checks in the process of registration. He made the point that criminal history is defined as including all convictions, every plea of guilty or finding of guilt for an offence whether or not a conviction is recorded, and every charge made against a person for an offence whether or not the charge is proven. He also expressed a concern about criminal history law, which is probably more relevant to other jurisdictions.

Dr Bendall made the point that the criminal history checks go to the board in their entirety and then the board makes the decision as to what is used — what is relevant — and what is not used, rather than simply having made available to it the information that is considered relevant. He suggests an alternative approach, which would be consistent with the Victorian charter of human rights, would be to legislatively establish relevant offences and charges and then collect only that information. Of course, effectively we do not have the opportunity to do that given the way this legislation has been presented to us.

As I said, Dr Bendall expressed concern about the operation of criminal history law. We do not have spent conviction schemes in the state of Victoria but in the wider sense it may be a concern in other jurisdictions around the nation. He also made a very valid point that there is evidence that recorded criminal history information is not always accurate and referred to the Auditor-General's identification of difficulties with the police law enforcement assistance program (LEAP) database and also an Institute of Criminology review of LEAP and the not necessarily accurate information contained therein.

I am not having a shot at LEAP in saying that; it is simply a function of databases. Unless they are managed absolutely scrupulously and consistently at all times, there is the likelihood that that sort of information problem may arise. When that impacts upon the reputations and livelihoods of professionals, it needs to be considered very carefully.

Dr Bendall also raised issues about proof of identity and the potential misuse of documentation if it is retained. He referred also to the proposal that public registers, which will include a practitioner's unique identifier, be available for public inspection and search on the national agency's website.

Under the bill extracts have to be provided, for a fee ^{18:25} and the entire contents of the register can be obtained, for a fee. Again why that situation needs to exist at all,

except in terms of a marketing opportunity for appropriate companies, is unknown. I would like to think that sort of thing could be picked up.

The Scrutiny of Acts and Regulations Committee (SARC) raised for the consideration of Parliament the issue of whether the bill insufficiently subjects the exercise of legislative power to parliamentary scrutiny, and there are similar difficulties with the various legislative oversight committees around the nation in dealing with this template, and whether those committees can in fact discharge their duty to their respective parliaments adequately when there is effectively no opportunity to vary the legislation that is before the house.

Finally, I want to comment on clause 7 of the bill, which will exclude a number of Victorian acts from operating in this area: the Freedom of Information Act, the Health Records Act, the Information Privacy Act, the Ombudsman Act and the Subordinate Legislation Act. The Subordinate Legislation Act will operate, but we can only disallow regulation when a majority of other jurisdictions around Australia disallow that subordinate legislation. That is potentially an issue as well.

There are some significant issues with this bill, and I would like to see them addressed.
