HEALTH AND AMBULANCE SERVICES COMMITTEE

Members present:

Ms L Linard MP (Chair)
Ms RM Bates MP
Mr SL Dickson MP
Mr AD Harper MP
Mr JP Kelly MP
Dr CAC Rowan MP

Staff present:

Ms A Honeyman (Research Director)
Ms K Dalladay (Principal Research Officer)

PUBLIC BRIEFING—HEALTH LEGISLATION AMENDMENT BILL 2015

TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, 2 DECEMBER 2015

Brisbane

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Committee met at 9.54 am

DWYER, Ms Sophie, Executive Director, Health Protection Branch, Prevention Division, Department of Health

HARMER, Mr David, Director, Legislative Policy, Strategic Policy and Legislation Branch, Strategy, Policy and Planning Division, Department of Health

LAW, Ms Kirsten, Manager, Legislative Policy, Strategic Policy and Legislation Branch, Strategy, Policy and Planning Division, Department of Health

YOUNG, Dr Jeannette, Chief Health Officer and Deputy Director-General, Preventive Health Branch, Prevention Division, Department of Health

CHAIR: We will now proceed to our third and final briefing today on the Health Legislation Amendment Bill 2015. The bill was introduced into Queensland parliament and referred to the committee for examination on 12 November 2015. The committee understands the bill amends six Health portfolio acts—specifically, the Food Act 2006 to require fast-food chains, snack food and drinks chains, bakery chains, cafe chains and supermarkets to display nutritional information, and to authorise disclosure of confidential information for limited public health and safety reasons; the Health Ombudsman Act 2013 and the Hospital and Health Boards Act 2011 to enable the minister to temporarily appoint persons to the public panel of assessors and hospital and health boards respectively; the Pest Management Act 2001 to enable the chief executive to delegate the chief executive's powers to appropriately qualified employees of the hospital and health services; the Public Health Act 2005 to streamline the process for enabling registered midwives to access the Queensland pap smear register; and the Transplantation and Anatomy Act 1979 to make clear that the definition of blood products under section 42AB does not include cord blood—that is, blood obtained from the placenta via the umbilical cord for the collection of stem cells.

The committee is due to report to the parliament by 15 February 2016. I would now like to welcome our witnesses from the Department of Health: Dr Young, who has stayed on for our third briefing, Ms Sophie Dwyer, Mr David Harmer and Ms Kirsten Law. Would you like to make a brief opening statement before we proceed to questions?

Dr Young: Thank you, Madam Chair, and I thank the members of the committee. Thank you for this opportunity to brief you regarding the Health Legislation Amendment Bill 2015. This will, as you have said, amend six portfolio acts. The most significant amendments are to the Food Act 2006 to establish a statewide menu labelling scheme. With your permission, I will describe the proposed scheme before briefly outlining the other amendments in the bill.

Unhealthy eating and obesity are among the leading preventable causes of death and disease in Queensland. Sadly, they have a particularly profound effect on our children and young people, as 16- to 17-year-olds get 45 per cent of their daily energy from fast food. For this reason, the government considers it essential that we assist consumers to make better informed and healthier choices when purchasing fast food, and this is the purpose of the menu labelling scheme.

If enacted, the bill will establish the scheme allowing for specific details to be prescribed in a food regulation. The minister tabled a draft food regulation when introducing the bill so that you are able to evaluate the whole scheme. The scheme will require businesses that sell ready to eat food to provide nutrition information at the point of sale. Businesses will include fast-food chains, snack food and drinks chains, bakery chains, cafe chains and supermarkets. They will be required to clearly display the average energy content in kilojoules for each standard food item on their menus. They will also be required to state that the average adult daily energy intake is 8,700 kilojoules. The mandatory display requirements will apply only to licensable food businesses that have more than 20 outlets in Queensland or 50 outlets in Australia. Food outlets that are not captured by the scheme but voluntarily display nutritional information will be required to comply with the requirements of the bill.

The department consulted with stakeholders when developing the bill. The discussion paper was distributed to over 120 stakeholders, including food businesses both within and close to the outlet threshold, peak food industry bodies, and consumer and public health organisations. There was general support for the scheme with an emphasis on the importance of national consistency. The proposed scheme is generally consistent with the existing menu labelling scheme in New South Wales. Stakeholders also supported the delivery of a community education campaign to support the scheme.

The legislation will commence on assent. However, the bill allows food businesses a transitional period of 12 months in which to comply. This period will also allow for a community education campaign to help consumers to correctly use nutrition information on menus. Evaluation will assess: change in consumer knowledge, attitudes and purchasing behaviours; business compliance, including food testing; and change in the availability of healthier food and drink options.

I will now turn to the other amendments in the bill. The bill will amend the Food Act to allow the chief executive to authorise the disclosure of confidential information in limited circumstances—that is, where there are reasonable grounds to believe disclosure is necessary to prevent or reduce the possibility of a serious danger to public health or to mitigate the adverse consequences of a serious danger to public health. Earlier this year, Queensland Health was unable to effectively warn the public to not consume certain brands of eggs known to be linked with outbreaks of salmonella. Should similar outbreaks occur in future or other health risks arise, which is a possibility, this important amendment will mean we are able to warn consumers effectively, providing specific advice about how best to avoid health risks. The proposed provision includes safeguards to ensure an appropriate balance is struck between the need to protect and promote health and protecting the rights of businesses and individuals affected.

The bill amends the Health Ombudsman Act 2013 to allow the minister to make temporary appointments to the public panel of assessors. These assessors assist the Queensland Civil and Administrative Tribunal in disciplinary proceedings relating to registered health professionals. The temporary appointments can be for up to six months and can be made only on the advice of the principal registrar of the tribunal. This mirrors what is already in place for professional panels of assessors.

The bill will also enable the minister to make temporary appointments to hospital and health boards for up to six months with a further extension of six months. Temporary appointments may only be made where the minister reasonably believes it is necessary because: the board does not have the number of members required by the hospital and health boards act; the minister considers the members of the board to do not have the requisite skills, knowledge or experience required to perform the board's functions effectively; or the board does not have a clinician member as required by the act. Urgent appointments may be required if, for example, current board members unexpectedly resign or take unplanned leave.

The bill will make an administrative amendment to the Pest Management Act 2001 to enable the chief executive of Queensland Health to delegate powers under that act to appropriately qualified employees of the hospital and health services. At present, the chief executive can only delegate powers to an employee of the department, which does not include HHS employees. If the bill was amended and delegation made, HHS employees could exercise the delegated power to deal with forfeited items such as pesticides that are seized or surrendered under the Pest Management Act.

The bill also makes a minor amendment to the Public Health Act 2005 to enable registered midwives who are not also registered nurses to access the Queensland Pap Smear Register. At the moment, a registered midwife who is not also a registered nurse cannot access the register without first being designated a health practitioner by the chief executive of the department. This is an unnecessary step which will be removed by the bill.

Finally, the bill makes a clarifying amendment to the Transplantation and Anatomy Act 1979 to ensure that the Australian bone marrow donor registry is able to be exempted from the act's human tissue trading restrictions, which might otherwise prevent it from trading stem cells contained in cord blood. Stem cells are used to treat a wide range of conditions such as leukaemia. So it is important that the relevant provisions of the act are clear. Amendments made in 2014 were intended to allow the registry to be prescribed as an entity exempt from the trading restrictions both for the purposes of trading in bone marrow and stem cells in cord blood. However, the amendments were not sufficiently clear that cord blood is not a blood product for the purposes of the act. As a consequence, the registry is not clearly eligible for an exemption. Now I would be pleased to take any questions.

Dr ROWAN: Thanks very much, Dr Young. In relation to the fast food menu labelling scheme, what is the anticipated cost for small business in Queensland? Is there any idea?

Dr Young: I do not know if we have specifics as to what it has cost New South Wales businesses.

Ms Dwyer: No, I do not have it immediately at my disposal.

Dr ROWAN: Could you take that on notice?

Dr Young: We could take it on notice, yes.

Dr ROWAN: Is the enforcement of a statewide fast food menu labelling scheme going to be done by the environmental health officers?

Dr Young: Also local council have a role in food businesses.

Dr ROWAN: Again, from a local council perspective and from that of the environmental health officers, could I get some idea of the additional resourcing or costs in other jurisdictions? Would you have any idea of that? Would you like to take that on notice?

Ms Dwyer: The act will be administered by Queensland Health environmental health officers. So it will not affect local government. We will be taking on that role. We will be able to absorb it within existing staffing at environmental—

Dr ROWAN: So no impact for local councils. The other thing is around obesity generally. It is obviously the type of food, portion sizes and age appropriate exercise; a combination of three maintains an ideal or healthy weight. Particularly around portion sizes and when it comes back to this fast food menu labelling scheme, if you think about a suburban middle sized fast food outlet and they are carving up a side of lasagne or something like that, the portion size can change depending on how they do that each and every time, or if they are making a thick shake, how many scoops of ice-cream they put in may change. My question is: there is obviously a process through this of looking at kilojoules, but how is the portion size being factored into that when it is not the simple sort of fast food sizes like at McDonald's where you have a burger and the portion size is fixed and then they can work out the kilojoules as opposed to some of the other fast food retail outlets where portion size clearly changes?

Dr Young: These businesses that have 20 outlets across Queensland do have fixed portion sizes. That is how they manage their business and sell their products. I agree with you; it is a little bit more difficult with a business that only runs a single cafe, but they are not captured under this. If they wish to put up information, then they do need to adhere to this legislation, but it is not mandatory; it is voluntary for them.

Dr ROWAN: For those retail outlets?

Dr Young: Yes.

CHAIR: In regard to food labelling, can you outline what support will be given to these outlets—and I understand the provisions will not apply until 12 months after the commencement of the act—to promote an understanding of compliance with the provisions? Can you talk a little bit about it so they can understand. They are not going to sit there and be a nutritionist themselves. Kebab stores will have to be caught—obviously chains—in terms of understanding what is in their food.

Dr Young: Remembering that these are large chains. In terms of the national chains, they are already doing this in other states which is why it is important we are consistent across states. That is why we are consistent with the New South Wales legislation as they went first. Those chains are already doing it. You might know when you go to the Coffee Club or Shingle Inn they meet the legislation already and have done for a while because it is easier for them to use the same menu boards here in Queensland that they use in New South Wales. In Queensland if there are chains that do not exist elsewhere in the country, they are only captured if there are 20 involved in a chain.

CHAIR: I know we do have a couple. So it is more about how they will cope with the changes that I am interested in.

Dr Young: It will be working with them. We do have a program in place to assist them. They have 12 months before they need to comply. So we will work through. Those chains are big enough that they will be able to get the expertise to assist them in working through their menus and sorting out what the kilojoules are in the different products.

CHAIR: Do you have a standardised program, or do they have to get a nutritionist? How does that work?

Dr Young: We have an online nutrition panel calculator developed by Food Standards Australia New Zealand that they can go to. We have nutritional analysis software that is available, or they can use laboratory analysis and then we have food composition tables and databases. There is a lot of information already done there. As I say, we are following behind what other states have already done. That work is all available and out there for businesses to access and use and we will be working with them to assist them with that. There are six food businesses in Queensland, I am told, that would meet that threshold of having 20 outlets or more.

Mr DICKSON: In relation to food labelling, how is genetically modified food going to be taken into account? Is it a free-for-all, is that going to be on the new labels or are people going to be aware when they go to the shop that it is a by-product?

Dr Young: That is not part of this legislation.

Mr DICKSON: That is why I am asking.

Dr Young: I could take that on notice, but it is not part of what we are doing here. Genetically modified food may or may not have different kilojoules depending on what it is that has been modified and that would be picked up.

Mr DICKSON: If you could take that on board I would be interested to see what the feedback is on that because I know a lot of places in the world are concerned with the implementation of genetically modified food and the impacts on our body.

Dr Young: It is not anything to do with this particular bill.

CHAIR: As it is outside the bill we would not need you to take that on notice for the committee.

Mr DICKSON: I will get into the easy stuff. Relating to the hospital board appointments and the difference between the existing role of the minister under the legislation and the role of the minister under the new legislation, what are those differences going to be in terms of the impact under the new legislation? What will be the minister's powers in terms of the difference between what he can do and what would normally go through cabinet?

Dr Young: I will pass that question to my colleague, Mr Harmer.

Mr Harmer: I will provide a bit of context. Under the Hospital and Health Boards Act 2011 each hospital and health board is controlled by a board. The boards are constituted under the act and must consist of five members, one of whom must be a clinician. The act contemplates a transparent appointment process by which members of the board are invited, through an advertising process, an EIO process, to apply to be members of the board and then there is a selection process that follows that. That is the current practice, if you like, for appointing members to the board.

The proposed amendment is designed to deal with a situation where there are unforeseen or unexpected vacancies on a board. For example, members might be unexpectedly absent or unwell or, alternatively, the right skills mix might not be present on a board. So this proposed amendment is designed to give the minister discretion to appoint people for a temporary period of time in order to ensure that the board is properly comprised and can exercise its functions. But it is not designed as a substitute for the existing open and transparent appointment process already administered by the department.

Mr DICKSON: Just to clarify that—and I will use this correlation. The racing board was fired in recent times and we are waiting for a new board to be put in place. That is only about eight or nine months old and we are waiting for that to occur. In this instance what is 'temporary'?

Mr Harmer: The legislation contemplates an appointment being made for a maximum of six months and then there is discretion for the minister to extend that person for a further six months. So the total length of time for which a temporary appointment of one individual could be made is 12 months. It is worth understanding that the department runs an appointment process each year. In May there is a selection process which the department works towards and ordinarily we would expect that all appointments for the board, except in unusual circumstances, will be made through the ordinary appointment process. It would only be where there is a vacancy that cannot be met by the existing appointment processes where you would expect that these provisions might be used by the minister.

Mr DICKSON: My understanding of the answer is that it will still go back to cabinet for that decision to be made, or can the minister make that decision by himself?

Mr Harmer: I probably need to clarify what you are asking.

Mr DICKSON: Under the new rules?

Mr Harmer: Where the minister is exercising his power under the proposed legislation there would be no requirement to go to cabinet in that there is no Governor in Council appointment process associated with the use of this power. Does that answer the question?

Mr DICKSON: What would the binding rules be within this document, if you could point me to it or give me a verbal understanding? If we go through this process and for some reason there has not been an appropriate person found, what locks it in stone that these time lines will be met? As I used that analogy before relating to the racing board, it has gone out the window; there are no rules at the moment. How can I be guaranteed that there will be fixed times and time lines met?

Mr Harmer: I understand. You can be guaranteed that by the words of the legislation, which expressly state the period of time for which the minister can make a temporary appointment.

Mr DICKSON: Fantastic. Thank you so much.

Mr KELLY: I have had a number of parents come and see me regarding schools that are actually teaching their kids calorie counting. They have expressed some concerns around particularly young kids going down the path of learning to count calories. Have you got a view on whether or not there are any potential negative impacts of calorie counting, which is effectively what the food labelling will have us doing?

Dr Young: I think the best way of teaching young children about good nutrition is teaching them about whole foods: talking about fruit and vegetables, eating non-processed foods and not drinking sugary soft drinks. I think that is possibly a better way rather than going down the route of a kilojoule number. For older people I think it is very effective to show the different options so that people can get an idea because it is so confusing. I think there is no doubt that people struggle to understand what is low fat, high fat, low sugar, what difference does it make, what are all the differences? I think it is good to point out to people that you need, on average for an adult—and this is adults we are talking about—8,700 kilojoules a day, so if you go and have that particular food item that has 2,000 kilojoules, you have eaten 1½ days worth of your energy intake. Lots of evidence has been collected in different places around the country that it does influence people's choices, that they will move away from that very high, dense calorie intake and choose alternatives.

For children I do think you are better off talking about general nutrition principles rather than saying to a child, 'You are better off having something with fewer kilojoules.' I do not think that is a helpful concept. With all education you are better off layering things and starting with basic information and then gradually adding to that.

Mr KELLY: In other jurisdictions do we have this situation where you have the non-franchised fast-food outlets versus the person who owns the fish and chip shop on the corner? Is there that differentiation between the rules in other jurisdictions?

Dr Young: Yes.

Mr KELLY: Is there much of a take-up amongst those smaller—

Dr Young: I am not aware of whether there has been much take-up.

Ms Dwyer: We do not have that information, because it focuses on the change.

Mr KELLY: In relation to the piece of legislation that deals with cord blood, the purpose of that is to allow the exchange of cord blood, particularly the stem cells?

Dr Young: Yes.

Mr KELLY: Are there any ethical concerns that we should be aware of in relation to that?

Dr Young: Those are managed through all the ethical processes in terms of accessing that. There are a lot of ethics put in place in terms of protocols and procedures that are guided by the National Health and Medical Research Council standards, so no. This act is about not trading. That usually means that you cannot pay for human tissue unless you are a prescribed bank under the act. You are then allowed to recoup the costs of collecting and maintaining that tissue. For instance, in Queensland we have a bone bank, an eye bank, a heart valve bank, a skin bank. When people access tissue from those banks, they pay a set cost that is the cost of retrieving and storing that tissue.

If you have entities that are not prescribed under the act, then they are not allowed to trade. That has accidentally missed this particular entity, which we thought we had managed in the last amendment to the act. But it was not clear because people started saying this was a blood product, which it is not really. So this is about clarifying the issue.

Mr KELLY: Can you give us some examples of what stem cells in the cord blood would be used for?

Dr Young: Leukaemia is one of the main ones. It is used a lot for children for replacing—

Mr KELLY: Rebuilding bone marrow after—

Dr Young:—the stem cells.

Mr KELLY: Stem cell transplants for leukaemia.

Dr Young: And other cancers.

Dr ROWAN: In relation to the Health Ombudsman Act changes, can you tell me a little more about the public panel of assessors who assist the Queensland Civil and Administrative Tribunal in terms of what qualifications or the types of experience those people have?

Mr Harmer: I may need to take that on notice. My understanding is that there are no specific qualifications for the public panel of assessors. Where a panel of assessors assist QCAT in making a decision, it will be comprised of three members. There will be one member from the specialist panel—for example, if the complaint was about a dentist, there would be a dentist present on the panel. There would be another health professional and a member from the public panel of assessors. The public representative is there possibly as an advocate for the person making the complaint. In that sense, they do not require any particular specialist expertise. But, if I can confirm that following the committee, that would be great.

Dr ROWAN: Can you take on notice the assessment criteria or how they are selected around qualification and experience? I wanted to ask about the temporary appointment to the professional panels by the minister. Just to clarify, does that mean that, if there is a coronial investigation in relation to, say, a child has died at an individual hospital, the minister has the powers to be able to temporarily appoint a person of professional experience to a panel of assessors and reviewers on behalf of the Ombudsman?

Mr Harmer: I need to be clear that this is the panel of assessors that supports QCAT's consideration of a complaint to the Ombudsman. I do not know what the situation is in a coronial inquest. I believe that is outside the scope of the bill.

Dr ROWAN: In relation to the amendments to the Hospital and Health Boards Act to do with temporary appointments on an individual board, is there a specific or fixed number? In other words, let's say a board collapses for whatever reason. Can the minister appoint an entire temporary board or is there a fixed number of positions that can be temporarily as opposed to permanently appointed? In other words, if two or three people are sick or unavailable or have left the board, they can be temporarily appointed or can the whole board be temporarily appointed?

Mr Harmer: The legislation does not set a fixed number, so the minister could appoint any number of board members through the temporary provisions.

Dr ROWAN: I have a question for the Chief Health Officer. In your view should there always be both medical and nursing representatives on all of the hospital and health service boards?

Dr Young: I believe there needs to be clinical representation. I do not necessarily think they have to be specifically profession related. I think that is a decision for that local area to make in consultation of course with the minister through that process.

Dr ROWAN: But, in terms of the optimal model, would you foresee a situation where an individual hospital and health service board would not necessarily have a medical representative on it—no doctor involvement?

Dr Young: That might occur. In that case I am sure that there would be strong engagement with the senior medical staff in that facility to provide that expertise.

Ms BATES: My question is to Mr Harmer. Just to clarify what my colleague the member for Moggill was talking about before, under the HO Act now, who currently makes the appointment to the public panel of assessors? Whose job is it?

Mr Harmer: I do not know the answer to that. Can I take that question on notice?

Ms BATES: I am happy for you to take that on notice. Also, I notice in the HO provisions that there is no advertising for the public panel of assessors. I am assuming that under this legislation the minister can put anybody on.

Mr Harmer: Yes, that is correct. That is my understanding. But it is important to recognise that the minister will only exercise his power in this context where he is asked to do so by the registrar. So the registrar will identify to the minister that there is a need to make a short-term appointment because, for example, someone has gone missing from the panel. It will only be used at the instigation of the registrar.

Ms BATES: I would definitely like to know who currently does that. I understand the registrar can recommend to the minister, but how does the registrar know?

Mr Harmer: Sorry, Dr Young has just pointed to my own notes. The panel members are generally appointed by a Governor in Council process for up to five years. We will confirm that in writing. But that would then mean that there is a significant appointment process through cabinet, as would ordinarily occur.

Ms BATES: That is what I was about to ask. Is it by regulation through cabinet or by full cabinet submission?

Mr Harmer: Again, I will clarify in writing, but a Governor in Council appointment would not always necessitate a regulation.

Ms BATES: Just on the hospital and health boards, we were talking before about temporary appointments. Forgive me if I misquote you; I do not mean to, but I thought that you were not quite sure how this process was actually going to work. Generally, for these sorts of appointments to any board, whether they are HHS boards or not, there is a call for expressions of interest, there is a process that the department goes through, the minister then takes their recommendation to cabinet and there is a cabinet approval of the board. Under these changes, does the minister call for expressions of interest or is there no call?

Mr Harmer: If the minister is exercising the temporary power that is proposed, there would be no call for expressions of interest.

Ms BATES: So there is no call for expressions of interest, so there is no transparency in the process. The minister can make the appointment and it does not go to cabinet. Is that right?

Mr Harmer: I am not sure that I agree with all of that statement.

Ms BATES: No, I know. I am not putting words in your mouth.

Mr Harmer: There is transparency in the sense that people will know who is appointed, but it is correct to say that there would not be a significant appointment process leading to Governor in Council consideration, as would ordinarily occur.

Ms BATES: So, under this legislation, the minister can appoint anybody?

Mr Harmer: Yes, that is correct.

Ms BATES: My concern with the boards has been that in the past Queensland Health has had central control back in Charlotte Street and with the minister. I see this as an attempt to do that as well. My other concern is: is this part of the current government's union participation policy? You mentioned before that, if the minister is the one who decides that he does not believe the skill mix is there or people for whatever reason are not up to the task, he could feasibly under this legislation remove the entire board on a temporary basis. Under the legislation, it says that if the person does not have sufficient experience, knowledge, skills and standing in the community having regard to that function then the minister could summarily remove the entire board on this temporary arrangement with these powers under the legislation. Am I correct in assuming that?

Mr Harmer: It is quite a complex question. The legislation provides for the process by which the minister can remove people from a board. If all of the things fell into place, that hypothetical is possible. But in practice I do not think it would occur. Obviously members of the board would be able to review the minister's decision. In many respects the other aspects of your question are probably better asked of the minister.

I think what I would say here is that this particular proposal was an initiative of the department. It recommended to the minister that there was a need for this capacity to make temporary appointments following its experience during the caretaker period at the last election where there was no mechanism to fill vacancies in the period during the caretaker period and immediately following it as the new parliament took form. This is an initiative which the department has recommended to the minister principally for reasons of ensuring that boards can operate and perform their governance roles at all times.

Ms BATES: We have other departments where there still is no mechanism. We are still waiting for people to be on boards. I find it interesting that it was just from the HHS boards. My deep concern still is that we are going back to the minister deciding to remove people who are currently on boards based just on his summation and no-one else's, with no other transparency around the process. We are not going to know who has applied for these positions, whether they are better than the people who are currently there. Feasibly, he could remove the entire board just based on that.

CHAIR: I refer the member for Mudgeeraba to the actual section we are referring to here, section 24A, which I think in large part addresses some of the concerns you are raising. In my opinion—obviously, I seek your confirmation or otherwise of this—it is a significantly high threshold to have in legislation that 'if the minister reasonably believes it is necessary to urgently'—the first threshold here is 'urgently'—'appoint a person as a member of a board because'. I take your point about paragraph (b), which states—

(b) the Minister considers the members of the board do not have the skills, knowledge or experience to perform the board's functions effectively and efficiently ...

And the board's functions are clearly set out as to what they are and what they are not. The minister is required under legislation to also meet that threshold of proving why those skills, knowledge or experience would not be present. It would not be giving any power and avoiding any accountability because it also states that this can occur for a period of six months or to reappoint the person as a member for six months. It still will require cabinet consideration of a formal long-term appointment that will go to Governor in Council. Is my understanding correct?

Ms BATES: Actually that is not what you have just mentioned to me.

CHAIR: This is only temporary.

Ms BATES: No. The minister can decide. It does not have to go to cabinet. That is what we were just asking about.

CHAIR: Only on the temporary appointment, not on the permanent appointment.

Ms BATES: That is what I am saying. You could remove everybody on those grounds. It does not have to go to Governor in Council; it is the minister's decision. What I am suggesting here is that it is the minister's call. The minister can make a captain's call on this. He does not have to put out expressions of interest. He makes the decision and under this legislation it does not necessarily go to cabinet. You cannot confirm that it actually goes to cabinet. The minister under this legislation has the power to completely remove a board on these grounds. Whether or not he chooses to do that—and there are supposed safeguards in the legislation—it is possible that that could occur.

CHAIR: Again, I draw the member's attention to my comments which were obviously misunderstood. The temporary appointment does not require cabinet approval, but we are talking about temporary appointment in emergent situations, which is what is proposed. But a permanent appointment does require the formal cabinet consideration.

Ms BATES: I understand that, and that is what I just explained to Mr Harmer. Having been a member of cabinet, I do know.

Mr DICKSON: I raise a point of order. I would like clarification on the statement that is being made. I am losing track of it myself.

CHAIR: We are going to David to clarify. He is answering our question and then we can go to you.

Mr Harmer: I probably need to clarify. In answering the question earlier I may have confused the situation. The provisions of the bill that deal with removing a member of the board are not contained in this proposed amendment. So the provisions you are reading do not give the member power to dismiss a board member, rather they give him the power to add to a board to ensure that it is capable of performing its governance roles. There is a different set of safeguards around the removal of people from boards that already exist in the act, and those safeguards set a very high threshold before the minister can dismiss a board summarily.

Ms BATES: That is fine but, going back to the temporary appointment, the minister can appoint anyone without an expression of interest process, without the transparency that normally goes with a public application for these things, and the minister can decide without it going to cabinet. This is for a temporary appointment where someone is sick or has died or whatever.

Mr DICKSON: Up to a year.

Ms BATES: Up to a year. It does not go through the same process as a permanent appointment does.

Mr Harmer: A temporary appointment does not go through the same process.

Ms BATES: Thank you very much.

Mr HARPER: I am mindful of the time. You have pretty much answered my questions in your engagements just recently. On the very nature of hospital appointments in that urgent capacity, how many hospital boards do we have?

Mr Harmer: Sixteen.

Mr HARPER: That is quite a number of people and life does present challenges. To use the member for Mudgeeraba's words, with people dying, getting sick or whatever, I think we do need—

Ms BATES: It happens to MPs too.

Mr HARPER: Yes—to have the capacity to urgently appoint someone to keep that governance going. I take your point that during caretaker mode that is required as well. Do you see that as a common-sense approach? Are there examples of people who have had to step off boards because of illness in this last period of time?

Mr Harmer: There are currently a number of vacancies on boards, but they will be filled through the ordinary appointment process.

Mr HARPER: I saw those advertised.

Mr Harmer: Yes. From time to time board members will need to be replaced whether permanently or temporarily.

CHAIR: That concludes our briefing on the Health Legislation Amendment Bill 2015. Ladies and gentlemen, thank you very much for attending today. A transcript of the proceedings will be available on the committee's parliamentary webpage as soon as practicable. In relation to any questions on notice, the secretariat will make contact with you about how you can provide that information. Thank you very much again for your expert briefing and for your assistance in the committee's understanding of these bills. I declare the public briefing closed.

Committee adjourned at 10.32 am