



Speech by

**Mrs E. CUNNINGHAM**

**MEMBER FOR GLADSTONE**

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Hansard 17 November 1998

**HEALTH AND OTHER LEGISLATION AMENDMENT BILL**

**Mrs LIZ CUNNINGHAM** (Gladstone—IND) (3.42 p.m.): A number of aspects of the Health and Other Legislation Amendment Bill are worthy of support. The Pap Smear Register is something that one would hope will, over time, result in a better review of women's health. I have a number of questions for the Minister. The proposal is that the Queensland Cancer Fund administer the register. Were either the QIMR or the Cancer Research Centre, both of which report to Parliament, considered appropriate to carry out that role?

I pass on a concern raised with me. I do not think this would happen, but what would happen if there were an incident in the Cancer Fund's administration, either through depleted funds or a downturn in fundraising? Its core job is fundraising for cancer research. What would happen with the new work under its control? I am not in any way intending to demean the Queensland Cancer Fund. It has done a magnificent job over a number of years. Its work has funded a significant amount of new services and new information being made available to the medical profession, not only in Queensland but in Australia as a whole. Why was it chosen as the appropriate body to administer the register, as opposed to the Queensland Institute of Medical Research or the Cancer Research Centre?

The other issues I raise particularly relate to the CHO's position. Following the previous speaker, I raise them almost with fear and trepidation in case I get a strip taken off me as well. The main provisions of the Bill are to realign responsibilities that are currently under the Chief Health Officer to the chief executive officer, the Minister and a person who will be called a public health officer. I have not spoken to the CHO, but I have spoken to a number of practitioners about this proposal. They have raised some concerns with me that I pass on and in relation to which I seek a response from the Minister. I thank the Minister for the briefing I received at the Health building. I value that greatly, because people's health is a core issue and it particularly comes into focus when someone is crook. It comes into focus if there is a serious health incident in the State. The advice that the Minister gets must be accurate, timely and independent. It is partly on that basis that I put my questions to the Minister.

I have some conflicting information that I want clarified. On 21 October the Minister wrote outlining some of the changes that the Bill will introduce. One of the dot points states—

"The Chief Health Officer position will continue to be a statutory position, providing high level medical advice to the Minister and the Director-General on health issues, especially on standards, quality, ethics and research issues. The Chief Health Officer will continue to be a member of the medical board, the Queensland Institute of Medical Research Council and the Radiological Advisory Council."

At the briefing I had with the Minister's officers, I asked whether I could have a document outlining the CHO's current responsibilities and new responsibilities if this Bill is enacted. That document, under "Ethics and Research", shows that one of the responsibilities is membership of the Council of Queensland Institute of Medical Research. The document also shows that the CHO currently has responsibility under the Queensland Institute of Medical Research Act. The officer responsible after the enactment of this Bill will be the CEO, to advise the Minister and the chief executive on—

**Mrs Edmond:** It is the CHO.

**Mrs LIZ CUNNINGHAM:** The document I have states "the CEO". It states—

"... advise the Minister and the Chief Executive on matters relating to the QIMR, advise the Minister and the Chief Executive on ethical issues relating to transplantation and anatomy, forbid performance of a"——

**Mrs Edmond:** It must be a printing error. Certainly on mine it says "the CHO".

**Mrs LIZ CUNNINGHAM:** All of those under "Ethics and Research" are transferred from the CHO to the CEO. I might come and get clarification.

**Mrs Edmond:** Where?

**Mrs LIZ CUNNINGHAM:** Under "Ethics and Research".

**Mrs Edmond:** It is all CHO.

**Mrs LIZ CUNNINGHAM:** I will come back to the Minister with that document. My copy states that the first five responsibilities under "Ethics and Research" all go to the CEO——

**Mrs Edmond:** They are all CHO.

**Mrs LIZ CUNNINGHAM:** On this document they are going from the CHO to the CEO. I will come to the Minister and check that.

I will outline some of the concerns that have been raised with me. First, the amendment would significantly change the balance of power between our elected representatives and the health bureaucracy. The medical practitioner holding this position currently has statutory authority, is answerable directly to the Minister and Parliament, gives independent, professional advice to the Minister and has access to all data relating to public health and health policy matters.

I raised a similar issue fairly bluntly with Dr Stable, and he knew that I was not being too offensive. More and more in the parliamentary system in Queensland, whether we like it or not the CEO or director-general positions are becoming political. I acknowledge that the current director-general has been in that position under three administrations—with two changes—but that is attached to the person as opposed to the position.

One of the primary responsibilities of a Chief Health Officer is that of making an emergency declaration forbidding production, or ordering the destruction, of food under the Food Act. More importantly, and of concern to me, is that currently the CHO is responsible for the declaration of public health emergencies. That power is to be transferred from the CHO to the Minister, after seeking advice of the CHO and the CEO. I go back to my earlier comment: the CEO positions tend to be fairly political. I would like to think that they would go back to being apolitical. I do not have that confidence.

My concern is encapsulated by saying that, where financial accountabilities sometimes conflict with the action necessary to protect the health of the public, and where the bureaucracy may wish to prevent the accountable Minister from understanding the full impact of administrative decisions that have affected public health and wellbeing in a negative sense, there is the risk that the Minister may receive flawed or incomplete advice. Again, no sleight is intended on the current incumbents. People change. Often, when the Minister is given the responsibility to make a public declaration, or advisers are giving the Minister advice on public declarations that have significant financial impact, there would be a strong push to balance public health issues against monetary constraints. That is a concern. At the moment the CHO is completely independent. Some would say that independence could contribute to declarations about health issues that perhaps do not take into account the cost of remedying that problem. That is precisely why the independence of that position is important.

A couple of other issues have been raised with me, and I seek the Minister's comments on them. It is currently not mandatory that the CEO position be a medical position. At the moment it is, but that is not statutorially required. That means that public health staff must, if you like, educate the incoming CEO to a high level of understanding to ensure that the CEO is able to understand and exercise his or her statutory powers in an informed manner. Typically, the CEO positions are prone to the vagaries of political fortune and are held for relatively short periods. However, Chief Health Officers, in statutory positions, tend to stay on, providing an invaluable corporate memory. Under this proposal, there will be two: the Chief Health Officer and the Public Health Officer, both of which will be statutory positions. But both of them may have some constraints in reporting directly to the Minister. The Public Health Officer is going to go through the CEO. Therefore, the Minister will be vulnerable——

**Mrs Edmond** interjected.

**Mrs LIZ CUNNINGHAM:** In the chart that was drawn up for me, that Public Health Officer goes through the CEO.

**Mrs Edmond** interjected.

**Mrs LIZ CUNNINGHAM:** I would appreciate the Minister's response.

The CEO position may be perceived to be—or sometimes may actually be—more subject to political influence. That is one point that I have already raised, and it is probably the core of my concerns. On occasions, this may have the potential to lead to less appropriate decision making or advice to the Minister. Another point that was raised with me is the ability of the CHO's position to provide independent advice in protecting the health of the public. However, that ability should be regarded as paramount. To achieve this, the CHO's access to health information, including statutory health data collection, must be protected. The Minister has already indicated to me informally that the CHO will retain direct access to the Minister without any constraints, as will the Public Health Officer. Again, the chain of command that was drawn up for me showed that person having to go through the chief executive officer.

**Mrs Edmond** interjected.

**Mrs LIZ CUNNINGHAM:** I would prefer the Minister to reply in that vein, because that is the core of the concerns that have been raised with me. This is a really important issue. The transference of administrative and statutory powers is a core issue for the department. A health review has been ongoing for two or three years. I understand that draft legislation should be ready in December. This transfer of authority and power should, more appropriately, be dealt with during the debate on that Bill so that the transference can be done with appropriate checks and balances. To put it into this document is a more piecemeal approach that could lead to a flawed result.

These matters were raised with me by concerned people in the regions—not the person to whom the previous speaker referred. I circulated the Bill to a couple of people to obtain their comments. They were concerned that it came in this format—a format that did not appropriately take into account all the other amendments that the Health Act should bring with it after the review in about December—and that it would be better done in one piece, that is, under the Health Act.

Currently, the manager of public health and the Chief Health Officer are both qualified—as far as the statutory requirement that they be medical doctors. Will the Minister be requiring the current CHO and the current public health manager, both of whom are doctors, to reapply for their jobs, given that the responsibilities, particularly of the CHO, are slightly diminishing and there does not appear to be any valid reason for a reapplication to occur?

**Mrs Edmond:** No.

**Mrs LIZ CUNNINGHAM:** My main concern is not about the change. I understand the mechanics behind the change that the Minister is proposing. The main concern that has been raised with me, and the one that remains in my mind, is the fact that a significant review of the Health Act has been completed. I believe that the draft legislation should be ready by about December of this year. Changes of this quantum would more appropriately be presented in a health Bill, where all the checks and balances can more adequately be considered. Because of the reconstitution of their responsibilities, the Chief Health Officer and the public health manager may be able to give the Minister less information—and less independent information—because of the accountability stream. Again, I reiterate that that is not a sleight on the current office holders; it is a chain of command issue.

The portfolio changes that the Minister has proposed are different from those shown on the sheet that I was originally given. Under ethics and research, the first document had the first five issues transferring from the CHO to the CEO. On that basis, I was very concerned about some of the changes that were being considered. So I would be interested in the Minister's response to the timing of these changes and why they could not have waited until the review of the health Bill, which would have been more appropriate.

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