



Speech by

## LINDA LAVARCH

### STATE MEMBER FOR KURWONGBAH

Hansard 23 November 1999

#### PRIVATE HEALTH FACILITIES BILL

**Mrs LAVARCH** (Kurwongbah—ALP) (10.18 p.m.): I am delighted to speak in support of this Bill. The Beattie Labor Government and the Minister for Health, the Honourable Wendy Edmond, have been proactive in legislating to protect and promote the health and wellbeing of the people of Queensland. In less than 18 months since its election, our Government and this Parliament have passed legislation to establish a Pap Smear Register in Queensland, have replaced the outdated 1958 Radioactive Substances Act with the Radiation Safety Act and have passed the Health Practitioners (Professional Standards) Bill and the Health Practitioner Registration Boards (Administration) Bill to ensure that health care is delivered by registrants in a professional, safe and competent way.

To build on this program of protection and promotion of the health and wellbeing of the people of Queensland, we now have before the House the Private Health Facilities Bill, which establishes a new regulatory framework for private health facilities in Queensland. Whilst retaining a licensing system for private health facilities, it contains a range of new measures that will enhance the current level of protection provided to the public under the existing Health Act.

The Beattie Labor Government's proactive approach enables Queensland to keep pace with developments in the health industry and address emerging health care issues. One such area of the health industry which has positively exploded over the past 10 years is that of cosmetic or plastic surgery. In fact, it has doubled over the past five years. It was estimated that in 1998 in Australia 50,000 cosmetic surgery procedures and possibly as many as 200,000 cosmetic medical procedures were performed. The most popular procedures were liposuction, breast enlargement, nose surgery and facelifts.

In my contribution to this debate tonight, I wish to concentrate on how this Bill, together with other areas of health regulation, will enhance consumer protection for those seeking this type of surgery. If honourable members are unaware or not convinced of the huge growth in the cosmetic surgery industry, I suggest that next time they are in a newsagent they have a look at the covers of the glossy women's magazines, because they will see a range of articles advertised. Even with just a cursory glance, they will see titles such as "Bonus—Cosmetic surgery. Better breasts—The \$5,000 make-over weekend surgery". Another issue extols "Eternal youth— What would you do to get it?" Another is headed, "Surgery on a shoestring—Nip and tuck tours". Members might also be drawn to articles headed "Turn back your body clock— Make yourself irresistible."

**Mr Lucas:** Are there any do-it-yourself magazines?

**Mrs LAVARCH:** There are plenty for men's plastic surgery as well.

Another article is headed "Easy glamour—New skin miracles". The one I like the best is headed "Fast, fuss free beauty". Of course, there are many more. But there is a downside to these procedures, and I did find one article that was honest enough to admit this. That article was titled "What plastic surgeons won't do to their wives". This is an article about cosmetic surgeons drawing the line when it comes to their own families. They reveal which procedures they would advise against for their wives, from liposuction to laser-peel. For those who are Internet users, a search under "cosmetic surgery" will throw up hundreds, if not thousands, of sites advertising clinics performing such surgery. We find promotions such as, "Plastic surgery options— It could change the way you look at life and the way people look at you". Services offered include facelifts, breast reduction, breast augmentation, breast lifts, nose reshaping, protruding ears—

**Mr Veivers:** You must tell Allan Grice about that.

**Mrs LAVARCH:** I will let the member for Southport do that. The services offered also include laser skin resurfacing, tummy tucks, liposuction, facial spider veins, eye lift, collagen, lipectomy, lip enhancement, age spots, sunspots, chemical peel, chin enlargement and leg veins.

However, although cosmetic plastic surgery is generally considered a beauty issue, I do recognise that it has health benefits in reconstruction and restorative areas. But when it comes to beauty, the magazines make it all sound so easy, so painless and without any dangers—no risk, no fuss. Yet that is not the case. Recent controversy about cosmetic surgery led to an inquiry in New South Wales into the quality and safety and other aspects of cosmetic surgery. It was found that cosmetic surgery is now performed frequently at health facilities that are not licensed day hospitals or private hospitals.

The committee of inquiry recommended in its report that various measures be undertaken to address the risks to patients posed by the unregulated performance of cosmetic surgery and concerns over the promotion of cosmetic surgery. The inquiry identified that the cosmetic surgery industry operates outside the framework of organised medicine and raised the following issues—

it does not come under the auspices of any particular specialist medical college or professional body that can establish competency standards and appropriate training;

cosmetic surgery is now frequently performed in doctors' rooms where there is no regulation of safety, no independent peer review, and no reporting of complications; and

cosmetic surgery is not covered by Medicare so there is no protection through screening patients by GP referral.

**Mr Lucas:** The problem is that often people are in a desperate situation and they are not getting independent counselling or an understanding of the implications of it.

**Mrs LAVARCH:** I take the interjection of the honourable member for Lytton.

The before and after photos used to advertise cosmetic surgery is another area that should be looked into so as to ensure consumer protection. The Queensland Government's proactive legislative strategy largely addresses the issues identified in that review. The New South Wales report recommended that existing New South Wales private health facilities licensing legislation be amended to give it a wider application to facilities performing cosmetic procedures and that licensing be conditional on facilities being certified by a third-party accreditation body.

The Private Health Facilities Bill establishes a new licensing regime for private hospitals and day hospitals. A key feature of the Bill is the new definition of "day hospital", which has been developed in close consultation with stakeholders and which will ensure that day facilities providing higher risk health services meet licensing standards, thereby minimising the risk of harm to patients receiving those services. The definition applies to any day facility at which procedures are performed by a medical practitioner involving any of the types of anaesthetic or sedation specified in the definition or which involve a significant risk that the patient may require resuscitation. These will be prescribed by regulation.

Therefore, operators of day facilities at which cosmetic procedures are performed which fall within this definition will not be able to continue operating the facility unless it is licensed as a day hospital under this new legislation. Licensing requirements will include that the facility must comply with the relevant standards made under the legislation and that the facility must be accredited or certified by a quality assurance body within a set time frame.

Further, the New South Wales report recommended that non-compliance with licensing requirements, for example, under private hospitals legislation, would constitute "unsatisfactory professional conduct" and would therefore form the basis for disciplinary action. The Health Practitioners (Professional Standards) Bill, which was passed by the Parliament in the last session, addressed this situation. Under that legislation, a ground for disciplinary action exists against a registrant if the registrant has been convicted of any offence against an Act related to the practice of the registrant's profession. This applies to medical practitioners and all other registered health practitioners. This was one of a number of areas where the grounds for taking disciplinary action against a registrant have been expanded.

Prior to the enactment of the professional standards Bill, disciplinary action could be taken where a registrant has been found guilty of "conduct discreditable to the profession" or "misconduct in a professional respect". These terms have been interpreted to mean conduct which is substantially below the standards of the profession as judged by members of the profession. This test has now been expanded such that disciplinary action can be taken where it is established that the registrant has engaged in "unsatisfactory professional conduct". Importantly, this term includes professional conduct that is of a lesser standard than that which might be expected of a registrant by the public or the registrant's professional peers.

The New South Wales review also proposed that doctors be prohibited from entering into financial arrangements with agents who refer patients. The new health practitioner registration legislation establishes offences for registered practitioners paying or receiving moneys for referrals. These offences are essential for patients to be assured that they are being treated ethically by health-care providers. The new health practitioner registration legislation also requires registrants to disclose to clients and patients whether they have any personal interest in a health service to which the patient or client has been referred.

As proposed in the New South Wales report, all registration boards now have a clear authority to develop codes of practice for their registrants. This could deal with matters such as informed consent, appropriate patient selection and information disclosures. Failure to comply with a code of practice is evidence of unsatisfactory professional conduct.

The new health practitioners registration Act also has very targeted provisions dealing with advertising which may adversely affect the health and safety of the public. A key provision is that a person is not to advertise a registrant's expertise in an area of practice, such as cosmetic surgery, unless the registrant has the skills, knowledge, training or qualifications necessary to practise in that area. This will further assist patients in ensuring that they are being treated by appropriately skilled persons.

Medical technology has developed so fast in the nineties that almost every year there are new cosmetic procedures being developed. One of these new procedures has been in relation to laser surgery. Lasers are used to smooth out some of the fine lines and wrinkles on the face and have been promoted in preference to a chemical peel procedure. Lasers which are a source of non-ionising radiation are now used extensively in the field of cosmetic surgery. One of the most common types of laser used in this field is the class 4 laser, which is also the most powerful type used. The use of class 4 lasers in cosmetic surgery can expose patients to the risk of harm if the person using such lasers is inadequately trained or the lasers are used in inadequately equipped facilities.

Under the new Radiation Safety Act and the regulations to that Act which are due to commence on 1 January 2000, unlicensed persons are prohibited from possessing or using a class 4 laser for diagnostic, therapeutic or cosmetic procedures involving the irradiation of a person. To obtain a licence, a person must satisfy licensing criteria. For example, they must possess appropriate qualifications, skills and experience relative to the use of lasers and, once licensed, must comply with the requirements of the legislation which promote radiation, safety and protection. These requirements include that the laser and the premises at which the laser is to be used must comply with the relevant radiation safety standards and that the licensee must participate in the training program specified in the approved radiation safety and protection plan.

As members can see, when it comes to cosmetic surgery procedures, the interaction of this Bill, together with the newly enacted Health Practitioners (Professional Standards) Act and the Radiation Safety Act, a more comprehensive consumer protection regime will be in place. But, of course, the best consumer protection is being forewarned is to be forearmed.

Coming back to my beauty magazines, I must say there are some very responsible articles which urge anyone considering cosmetic surgery of any kind to research the topic as much as possible. One article in the New Woman Magazine in January of this year set out some precautions to take if people are contemplating plastic surgery, and these are worth mentioning in this debate today. Firstly, they should begin by talking about their options with a general practitioner, who can then refer them to the most appropriate specialist surgeon. Secondly, check that the surgeon they choose is a member of the Australian Society of Plastic Surgeons. Not all doctors who are entitled to practise cosmetic surgery are actually qualified plastic surgeons. All surgeons who are members of the Australian Society of Plastic Surgeons have been trained and practise their specialty in accordance with professional standards and ethics of the Royal Australian College of Surgeons.

Thirdly, ask the surgeon how regularly they perform the operation that people are considering. Fourthly, tell the surgeon exactly what they want in detail. Ask whether their expectations are realistic. Do not feel intimidated into not asking what they need to know. Inquire about what they can expect in the way of pain, scarring, risks, complication, costs and whether they will need to take time off work. Do not expect complete guarantees with the procedure and be suspicious if they receive any. Do not be fooled; no surgery is without risks. Fifthly, if they do not feel comfortable talking with one surgeon, then talk to another. Having good honest communication with their surgeon is vital.

In conclusion, it may well be that, with advances in science, the new millennium finds the elusive fountain of youth without resorting to the need for surgery. In the meantime we, as legislators, need to be proactive in protecting and promoting the health and wellbeing of the people of Queensland in not only the beauty industry, but all health industries.

I urge all members to support this Bill.