



Speech by

BONNY BARRY

MEMBER FOR ASPLEY

Hansard 15 October 2003

HEALTH LEGISLATION AMENDMENT BILL

Ms BARRY (Aspley—ALP) (12.06 p.m.): It gives me great pleasure to rise to support the Health Legislation Amendment Bill 2003, which requires the minister to once again go through the very onerous task of amending 11 health portfolio acts. They are designed to provide greater protection for health consumers and greater certainty to registered providers.

I want to concentrate today on the change to the Nursing Act. Before I do that I would like to say thank you, on behalf of my constituents who are both dentists and dental therapists, to the minister for her preparedness and her leadership with respect to the changes that have been made to the practice of dentistry. The bill implements recommendations of the national competition policy's review of the restrictions on the practice of dentistry. It makes amendments to a number of acts to ensure that Queensland's obligations under the national competition policy are met without compromising patient care. I, like a number of members here, had a number of discussions with dental therapists and dentists. I am very pleased with the outcomes that we see before us today. On behalf of my constituents I thank the minister for her efforts.

I would like to start by talking about the amendments in the bill for the Nursing Act, in particular how they relate to the disclosure of criminal histories for nurses. Following an extensive consultation, the Nursing Act is to be amended to provide for greater consistency between the regulation of nurses and the regulation of other health practitioners. As the minister indicated in her second reading speech, the amendments being progressed by this bill today will provide greater protection for consumers and greater certainty to nurses and midwives.

The Queensland Nursing Council is responsible for the initial and ongoing licensing of registered nurses, enrolled nurses, midwives and other persons authorised to practise nursing such as mental health nurses. The Queensland Nursing Council was established in 1993 as an independent statutory authority responsible for the regulation of nursing in this state. It is provided for by the Nursing Act 1992 and the council itself has a mandate to ensure, as far as practicable, that nurses are able to practise in a safe and competent manner.

The Nursing Act was certainly seen as a progressive piece of legislation when it was introduced into the parliament over 10 years ago. However, with this legislation the Beattie Labor government has taken the regulation of health practitioners to a new level. The model of occupational regulation adopted through the introduction of Health Practitioner Registration Act in 2001 and the Health Practitioner (Professional Standards) Act in 1999 reflect contemporary expectations about the regulation of practitioners providing professional services to health consumers.

The Queensland Nursing Council, of course, being responsible for the ongoing licensing of nurses, must establish appropriate balance between the legislative requirement to protect the public from unsafe and incompetent care with that of the service to the applicants, that is, nurses seeking an authorisation to practise nursing. When deciding whether a person is to be registered, enrolled or authorised under the Nursing Act, the Queensland Nursing Council must assess whether that person is a fit or suitable person to practise nursing. The policy of registration requires a number of things. It requires that the applicant provide evidence that they have successfully completed an accredited course conducted in Queensland or an equivalent course elsewhere; they must provide evidence of a recency of practice; and they must provide evidence of English language competency if, in fact, English

is not the applicant's first language. They must satisfy the council that their state of health is such that they are capable of carrying out the duties of a registered or enrolled nurse, without endangering any person to which they may attend, and they must provide verification of their good standing from the person's current or most recent registering authority.

This bill will amend the Nursing Act so that the Queensland Nursing Council will also be able to have regard to a person's criminal history when deciding whether a person is a fit and competent person to practise nursing. The council will be able to ask for and be provided with a written report about the applicant's criminal history by the Commissioner of the Police Service. The Criminal Law (Rehabilitation of Offenders) Act 1986 will not apply to the asking for or giving of this report, and information about and consideration of a person's criminal history will therefore encompass all convictions and charges regardless of when they may have occurred.

This capacity will assist the Queensland Nursing Council in accessing information about a person's full criminal history and will allow them to assess whether a person is a fit and suitable person to practise nursing. It will enable the council to have a more complete picture of a person's criminal history, including information about old convictions that may indicate a pattern of behaviour that could compromise the applicant's ability to practise the profession safely and competently. It should be noted, however, that the possession of a criminal history will not necessarily make an applicant ineligible for registration, enrolment or authorisation. Nor does it mean that the Queensland Nursing Council will automatically refuse the applicant. For example, the nature of a person's criminal history may be such that the QNC is satisfied that the applicant is fit to practise subject to certain conditions on their registration, or that indeed it has no bearing whatsoever on the applicant's suitability to practise nursing.

Honourable members would know that nurses are amongst Australia's most respected professional groups. They are recognised as professional health care providers who combine the art and science of health care when they look after their patients. However, it must be recognised that the community has a very high expectation that, for the purpose of protecting the public, the integrity of industry participants must be ensured. Consequently, those aspects of the bill that provide for the amendment of the Nursing Act are consistent with the scope of criminal history provisions in other legislation dealing with the employment or registration of people who primarily deal with children or other vulnerable people. Examples of this, of course, are the Medical Practitioners Registration Act 2001 and other health registration acts, such as the Education (Teacher Registration) Act and the Commissioner for Children and Young People Act 2000.

As members of the House may be aware, the degree of public protection to be afforded by the Nursing Act will be enhanced, as nurses will have a duty to advise the Queensland Nursing Council if they are convicted of an indictable offence or a practice related offence or if they have been subjected to disciplinary or other action by a regulatory body in another jurisdiction or, indeed, that they are party to a judgment or settlement of proceedings involving negligence.

There has always been a real challenge for a responsible government to find the balance between the protection of the public through the Nursing Act and the rights of individual nurses to natural justice and to not have to pay for their mistakes over and over again through the loss of registration as a result of disclosure of criminal history. Nurses are highly accountable to the public and to the profession and to nurses themselves. Nurses may face simultaneous Queensland Nursing Council, CMC, Health Rights Commission and other court proceedings. It is an immense level of scrutiny that a nurse may face at any given time and it is something that honourable members should be aware of when considering this particular aspect of the Health Legislation Amendment Bill.

With that said, there has been an extensive consultation process with respect to the amendments by the minister. On her behalf, I want to acknowledge the contributions that have been made by the Queensland Nursing Council, the Queensland Nurses Union, the Australian and New Zealand College of Mental Health Nurses, the Australian College of Midwives, the Royal College of Nursing Australia, the Directors of Nurses Association and indeed the Health Rights Commission. As I said before, nurses hold a very high level of public trust and confidence and are very answerable for their actions.

This bill further reinforces the responsibilities of nurses to be fit and proper persons to practise nursing, and that is the right thing to do. However, it also makes the call that nurses need to have appropriate workloads and a strong voice in the health care institutions in which they work, a very compelling call that we in this place should all listen to. Mistakes can and do happen—nurses are only human—but nurses are more likely to make mistakes when they are overworked, silenced or coerced by virtue of their role as employees. I am pleased, however, that this bill will also include a provision that it will be an offence for a person to aid, abet, counsel, procure or induce nurses, midwives or other persons authorised to practise nursing to engage in conduct that may be the basis for disciplinary action. The bill seeks to provide certainty for nurses, midwives and the public and to create an equity of standard across all health registration boards.

Before I conclude, I inform members that I am soon meeting with the retiring chief executive officer of Aged Care Queensland, Mr Michael Isaac. I take this opportunity to thank Michael for his efforts and work and his professionalism in the aged care arena in this state. He is not leaving the industry and is someone who is very committed to quality aged care in this state. I thank him for his work. With those few words, I commend the bill to the House.