



Speech by

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### HEALTH AND OTHER LEGISLATION AMENDMENT BILL

**Mr LANGBROEK** (Surfers Paradise—Lib) (11.32 am): I rise to speak to the Health and Other Legislation Amendment Bill 2007. At the outset, I affirm support for this bill on behalf of the Queensland coalition. The Queensland coalition will support the bill but not without major reservations about the efficacy, timeliness and political motivation for the bill. I thank members of the minister's department for the briefing that was provided to us some weeks ago.

I will begin my contribution by acknowledging an article published in the *Sunday Mail* last month. In that article, titled 'Ban on parents supplying grog', the police minister, the honourable member for Mount Gravatt, threw her support behind a move to ban parents from supplying their under-age children with alcohol. Whilst the proposed changes to the Liquor Act 1992 are not contained within the bill currently before the House, I believe there are parallels between this initiative and another that materialises here in the Health and Other Legislation Amendment Bill.

The common denominator between these two initiatives is the fact that they are both derived from Queensland coalition policy. If there is one thing heartening about this bill it is the evidence that, contrary to many a belief by the coalition and the general public, democracy is not yet dead in Queensland. One of the cornerstones of a democratic society is a free marketplace of ideas where people are encouraged to express their thoughts and convictions. The great liberal thinker John Stuart Mill believed that truth, that elusive invariable idea advantageous to society and all of its individuals, was born of democratic ideology and a free marketplace of ideas best serving the public interest. Today here in this parliament is our marketplace and for all its flaws, failings and Beattie government scandals, every day we sit in this chamber bouncing around ideas is market day.

Before I address the finer points of the proposed legislation, I must point out that it was this Labor government that only last year voted against some of the very changes this bill effects. One of the salient achievements of this bill pertains to the Tobacco and Other Smoking Products Act 1998. The amendments, specifically the insertion of a new section 26ZPA, prohibit the sale, commercial display and supply of bongs and ice pipes as well as their component parts in Queensland.

This bill evokes a sense of *deja vu* because it was the Queensland coalition which proposed these very changes to the Tobacco and Other Smoking Products Act when it was brought on for change last year. Last November I proposed to amend the aforesaid act to put an end to the drug paraphernalia blatantly sold in retail stalls and on our streets. The Queensland coalition proposed this amendment last year after I discovered this was happening during the schoolies festival in November. As I walked down Cavill Mall, and saw the hub of schoolies celebrations which take place annually in my electorate, I was horrified to see a number of retailers promoting schoolies specials on glass pipes and bongs. This is despite the fact that bongs used to smoke marijuana are already outlawed in Queensland. Clearly this state government has failed in enforcing its own law.

More concerning than bongs, however, are the glass pipes used to smoke ice—a 21st century drug more destructive and devastating than any class A drug has ever been. The proposed amendments I put to this House last year were to the same part, to the same section and to the same effect that this bill

mandates. Six months down the track here we are again having a debate on the very legislative change that the Queensland coalition advocated last year. The self-serving Labor government rejected the amendments to this act when we proposed them last year. Quite clearly, none of the Labor members watched the ABC's *Four Corners* program *The ice age*, because if they had seen that shocking documentary on ice users waiting for their turn to die, biding their time before their erratic and malignant psychosis left them permanently in a hospital psych ward, there is no way their conscience would have allowed them to rubbish a good idea based solely on politics.

The Beattie government used its majority vote to give drug peddlers the green light to sell their dangerous stock to young, naive school leavers. Do not think I am exaggerating. Within a week of my raising this issue in parliament retailers selling drug paraphernalia on the Gold Coast made an absolute killing thanks to the flurry of drug users stocking up on their utensils. You see, the druggies had enough sense to see the merit in our idea. They were worried that they would no longer be able to go down to their local Off Ya Tree shop and buy a bong. Probably thanks to what they were smoking, these people did not realise that the Beattie government would actually encourage their illegal activities by vetoing such important changes for mere political point-scoring. When one considers the dangerous ramifications it is not difficult to see why Queenslanders are increasingly disenchanted with the state government. The world is not a dangerous place because of those who do harm but because of those who look at it without doing anything. The Premier and the health minister may argue with me, they may argue with the coalition, but they cannot refute Albert Einstein who was absolutely right when he said that the greater evil—even greater than the scourge of ice—is the one that makes no effort to make good.

The Queensland coalition's proposed amendments to the Tobacco and Other Smoking Products Act were shredded in November last year by the Premier and his health minister who said it would be too hard to define ice pipes. The Premier need only have taken a stroll around Fortitude Valley in his own electorate to see what an ice pipe was. By throwing out this vital initiative the self-serving Labor government put Queenslanders at risk: the curious, the vulnerable, not to mention the tens of thousands of schoolies who had free market access to drug implements during their experimental rite of passage week of freedom. Short of firing up the pipe itself, the Premier and health minister exposed Queenslanders to the seedy underworld of illegal drugs because they had the chance to do something about it and they chose not to. Why? Because they did not want the Queensland coalition claiming the kudos for leading this country towards banning ice pipes. A majority of players on the field may allow them to play such dangerous games but it is a poor justification for their dirty, childish, time-wasting strategies. In fact, I would have thought the bigger player, the Dally M or Brownlow medalist if you will, would be the one who puts party politics aside for the benefit of the people they are paid to serve.

I encourage the Labor government members to reflect on what they would like their legacy to be while they are here in this parliament. Political motive is not a noble one. It is for that reason that I am willing to endorse the health minister's amendments as they pertain to the Tobacco and Other Smoking Products Act even though they are essentially a Queensland coalition initiative. At times we have to put politics aside. This bill needs to be passed. It should have been passed in November. Nevertheless, if this prevents only one person from spiralling into the sad, insubordinate world we saw in the ice age expose our efforts have not been in vain.

This has only strengthened the resolve on this side of the House to offer Queenslanders a real and better alternative government. Queenslanders are sick of the scandals under the Beattie government, they are sick of the arrogant government that shreds good legislation because it does not have the smarts to think of it. The fact that Labor has xeroxed a number of the coalition's plans to effect positive change in Queensland to me suggests they acknowledge the coalition as a real alternative. I am more than happy for them to adopt my policy. The reason I came into parliament was so that I could make a positive contribution to Queensland and the lives of the four million people who live here. We are not interested in political point scoring. To this end we support the bill.

As I have mentioned, the ban on the supply and commercial display of bongs and ice pipes would already be in place but for those opposite being too proud and stubborn to offer bipartisan support for these legislative changes until they could put their name to the idea. Apart from the obvious benefits of the amendments to the Tobacco and Other Smoking Products Act, I am pleased that the Queensland coalition's proposal is being rehashed because it means that the proper scrutiny of legislative processes is taking place.

In this spirit, I would like to reflect on the reason the Premier and health minister threw out these very amendments only last year. The health minister said that the problem with the amendment being moved by the member for Surfers Paradise is that it is indeed very difficult to define what is being referred to as an ice pipe. I note, however, that the term ice pipe has again been used in the bill. I also note that only days after Labor rubbished the coalition's proposed amendments the Premier got up on his soapbox and spoke about how he would do something about it.

Queenslanders are not interested in smoke and mirrors. Do not talk about what you have done or what you are going to do; just get on with the job. Today, six months after the event, we are finally seeing

some action. Obviously the Queensland coalition will be supporting this part of the bill because the Queensland coalition has no problem offering its support to legislative change from which the community will benefit.

We understand that ice is a growing scourge on our society that needs to be addressed. By halting the supply of the utensils used to take this drug we are taking one of the first steps. It is a real shame we could not have agreed to this last year. When the Queensland coalition pushed for this change last year the Premier did a good job diverting from the fact that it was us that started the ball rolling on banning the supply of ice pipes and bongs. The Premier jumped in front of the television cameras, waxed lyrical about how terrible ice is and announced yet another task force to investigate how the state could best wage its war on ice. But he refused to give serious consideration to these very amendments before the House when the coalition flagged them.

Not only that; it was also this government that rejected the federal government push for a national ban on ice pipes led by the then parliamentary secretary to the federal health minister, Christopher Pyne, at the national ice forum in Sydney in December 2006, just one month after the amendments had been proposed here in the Queensland parliament. In fact, none of the Premier's Labor mates heeded the federal government's call to ban and police the production and sale of ice pipes despite the evidence suggesting that the accessibility of ice pipes is hooking new users daily. The Beattie government's Ice-Breaker Strategy clearly is not going to win this war. When we consider a recent article in a national magazine on alcohol, tobacco and other drugs of substance which states, 'Ice usage dramatically increased last year,' obviously lip-service is not enough.

I do not have to stand up and talk about the great effects of ice. The drug crystal methamphetamine poses the single biggest risk to our society when it comes to drug use. It is strong, it is cheap, it is easy to get hold of. Ice is a destructive cocktail of toxic industrial chemicals that is highly addictive and heavily messes with the brains of users. More than three in 10 ice users have developed psychosis from taking the drug and those who have lived through the high, which can reportedly last weeks, have said that the comedown from the ice experience was one of the worst of their lives. Yet in spite of this the statistics beggar belief.

The Australian Institute of Health and Welfare report on national drug use last year found that one in every five people aged 20 to 29 years have used methamphetamines. Another report by Queensland's Crime and Misconduct Commission found that 44 per cent of amphetamine users surveyed have taken ice. More than 73,000 Australians are dependent on ice. Some anecdotal reports have even suggested that south-east Queensland is the ice capital of the world. This is a highly inevitable title and one which the Beattie government should be ashamed of. This time last year the Australian Federal Police uncovered this country's biggest ice lab on the Queensland-New South Wales border. Their yield was headed for the Gold Coast's glitter strip and the Valley playground in Mr Beattie's Bris Vegas.

All the task forces in the world will not stop Queensland's and indeed Australia's No. 1 drug enemy. This ban has to be achieved and what must follow is a dedication of adequate resources to currently destitute drug rehabilitation and support sector around Queensland. In addition, continued monitoring and investigation of Queensland's drug markets to identify emerging trends needs to be carried out and as well as improvement in the dissemination of credible information with regard to drugs and drug rehabilitation.

The minister could start by mapping what drug services are available in this state and reviewing the government's 2006 to 2011 drug strategy instead of reprinting those that have gone before it. The most up-to-date drug policy we have in Queensland does not contain one mention of ice despite the fact that this synthetic backyard chemical composition is far more dangerous than heroin. There is nothing in the Queensland drug strategy 2006 to 2010 that is new nor substantive which suggests Queensland is serious about clamping down on drug use.

It will be interesting to see how serious the Deputy Premier is about effecting an outlawing of ice pipes and bongs when it comes to handing down the state budget next month. Let us see what the member for South Brisbane can come up with to match the federal government's \$111.6 million pledge to boost support services for ice addicts and educate Australians about ice. That is \$111.6 million on top of a further \$9.2 million over two years to expand the scope of the national drugs campaign and an extra \$5.4 million over four years to aid AFP investigations into domestic drug rings and international drug crime.

This latest appropriation increases the federal government's investment in fighting the drugs war to more than \$1.3 billion over the last decade. Much of this funding has been and will continue to be syphoned off to the state to most effectively carry out the war from their front lines. The buck stops there. Command responsibility is theirs. Let us see what the Labor states, this one in particular, bring to the arsenal.

In turning to the specific clauses of this bill which relate to the banning of ice pipes and bongs, the health minister should be commended for using the broad phrase 'capable of being used' in the new section 26ZPA(4). The definition nets retailers thinking they can supply components of these utensils for

do-it-yourself assembly when buyers get home. This broad policy definition is necessary because, as we have seen, modern day drugs are quite different to anything we have traditionally known. In order for Queensland's laws to remain relevant, it is necessary we factor in greater scope to rein in all illegal drugs.

Furthermore, I would like to commend the raising of the dollar amount for infringement notices. I am hopeful that any hike in fines will act as a general deterrent for those considering flouting the law. However, I note here my concern with regard to enforcement of these new laws. A couple of months ago I was surprised to learn when I received an answer to a question on notice that I asked of the Attorney-General that, under current bans for bong supply, display or production—an amendment moved by the member for Cunningham in the 51st Parliament—not one charge had been laid. In addition, only 11 fines of \$300 have been given out to retailers caught selling bongs. Clearly, the legislation we have already in place is not being adequately enforced.

The paltry number of infringements means either Queenslanders have taken heed of the illegality of some unsavoury recreational pursuits—of course anyone who has visited an emergency ward on a Friday or Saturday night will attest that this is simply not the case—or the law has simply not been enforced. The fact that any one of us can wander down to the Queen Street Mall right now and purchase a bong is evidence of this—\$300 is a far cry from a deterrent.

This bill will provide for fines of up to \$10,500. I call on the health minister and the Premier to ensure that this new legislation does not become merely token law. I ask that the health and police ministers explain how this law will be enforced.

In offering my support for this rehashed Queensland coalition bill, I wish to draw the attention of the House to some reservations I have about this legislation and suggestions on how to overcome them. After my previous attempts to ban ice pipes were rejected by the Beattie Labor government, I went away and thought how I could reintroduce these amendments to ban ice pipes and how they could attract stronger penalties. It was obvious that the Premier and health minister were not interested in amending the Tobacco and Other Smoking Products Act to achieve a ban on ice pipes after my amendments were rejected the first time, so I looked elsewhere.

In fact, in the first parliamentary sittings for the year I was to present a private member's bill to shadow cabinet for approval containing a series of amendments to ban ice pipes—again. I was surprised when the health minister introduced this bill which unfortunately has trumped my prospective private member's bill, albeit on the basis of time, resources and political power rather than any real merit. Having said that, I am hopeful that the minister will consider incorporating more of the Queensland coalition's position into the Health and Other Legislation Amendment Bill as it applies to the tobacco act.

I mentioned before that I was concerned about the soft penalties for offences prescribed under the Tobacco and Other Smoking Products Act. Whilst the increase in potential fines is welcomed, I still note that this is a discretionary penalty only which means fines of up to \$10,500 can be given out. Only in a minority of cases is the maximum penalty actually prescribed. Clearly, discretionary fines of \$300 are not working. The Queensland coalition would like the penalties to reflect the seriousness of the crime. A discretionary fine, even with a \$10,500 maximum penalty, is not a sufficient deterrent unless those enforcing the law are not reserved in handing out tougher penalties. Under the bill, discretionary penalties may see the continuation of comparatively small \$300 fines being handed out. Furthermore, the fines that have been increased through this bill are in fact penalty infringement notices. These infringements are allocated to crimes that the government considers not serious enough to warrant court action. The settlement of a matter by way of a penalty infringement notice does not carry with it a recorded conviction for the offence and these infringement notices are handed out by Queensland Health officers, not necessarily the police.

My updated bans on ice pipe bans were going to be through changes to the Drugs Misuse Act. I was to propose new section 10C titled 'Producing, supplying or displaying dangerous drug utensils', which read—

A person who unlawfully produces, supplies or publicly displays dangerous drug utensils commits a crime with a maximum penalty of two years imprisonment.

Two years imprisonment is a lot more of a deterrent than a \$10,000 fine. The private member's bill then went on to define a dangerous drug utensil as an object that can be used for smoking a dangerous drug or inhaling the fumes or smoke from heating or burning a dangerous drug. The definition of dangerous drug utensils captured objects such as ice pipes, water pipes and bongs commonly used for the purpose of taking illicit drugs. Similarly, as this bill does, I also provided for objects apparently intended for administering drugs but which fall short of the definition without addition or modification. So I would respectfully submit to the health minister that amendments to the Drugs Misuse Act rather than the Tobacco and Other Smoking Products Act to ban ice pipes and bongs would result in tougher penalties and thereby more effective deterrents. My only other comment with reference to definitions is that I used

the term 'dangerous drug utensils' rather than stipulating ice bongos, ice pipes and, in the case of this bill, hookahs because I thought it would be desirable to have a broad definition in order to catch and ban all utensils used for the commission of dangerous drugs, including those that may arise in the future that we are not aware of now. I look forward to the health minister's comments on these submissions.

I turn now to the segment of the bill which will amend the Ambulance Service Act 1991 and the Health Services Act 1991. The key achievement of the respective amendments creates a legislative framework for the conduct of root cause analysis, or RCA, when an adverse or reportable event occurs during the provision of a health service. RCA, a long-time practice in the military, is a systemic process whereby factors that contributed to an adverse incident or reportable event are identified. For qualification, a reportable event is defined in clause 5 of the bill, which inserts a new part 4B into the Health Services Act 1991, as an event prescribed under the regulation that occurs while a health service is being provided at a health service facility.

According to literature on root cause analysis, most sentinel events result from faulty systems rather than human error. More often than not, the face behind the human error is merely the catalyst for the problem, not the core of the problem. As the methodology of delivering health care increases in complexity, RCA has been developed as a quality improvement measure aimed at identifying various factors which contribute to an event. The purpose of identifying the systemic and contributing factors to a reportable event is to establish measures that may prevent or, in the very least, reduce harm caused by future events. At the outset I want to state that the Queensland coalition again is supportive of any measure that will improve Queensland's floundering health system. Given the current climate of reportable events which occur within the public health system, the health minister will be very busy overseeing dozens of RCA teams. This will certainly keep the Deputy Premier happy. With so many staff needed to carry out RCAs, the unemployment rate will almost certainly continue diminishing!

RCAs are a problem-solving initiative which were developed by a team of stakeholders including doctors, nurses and academics wishing to reduce the number of preventable problems that invariably arise, sometimes in the provision of health services. RCA is based on the philosophy that problems are best resolved by addressing systemic root causes as opposed to merely focusing on the manifest symptoms. Based on the international success of the system in identifying the poison elements in health departments, I submit that the whole of Queensland Health should be subject to an RCA—except that the Queensland coalition and Queenslanders already know what the toxic problem is: it is this self-serving government which has neglected health services in this state for too long.

One of the most important factors of an RCA is that the process is one which is designed to be a learning system rather than accountability system. RCAs are not concerned with and are in fact divorced from the notion of apportioning blame. These guiding principles are outlined in the bill. Section 38J(c) amending the Health Services Act 1991 states—

the focus of the RCA should be on identifying and improving the policies, procedures or practices relating to the provision of the health service that contributed to the happening of the event, rather than on the conduct of individuals;

This is a salient point given that participation in the RCA process is—as it should be—completely voluntary. The RCA process was developed on the basis of three important questions: one, what happened; two, why did it happen; and most importantly, three, what do we do to prevent it from happening again?

The health minister will be relieved to hear that problems do occur in other states, and other countries' health systems, although they seem to occur more frequently in Queensland. Drawing upon international experience, in addition to preliminary RCAs carried out within Queensland Health departments, the team assigned to investigate the root causes of an adverse event maintains a focus on the contributing causes stemming from the organisational structure throughout the whole process. It examines factors such as the policies and procedures followed, communication problems, training shortfalls and the environment in which the reportable event occurs. But perhaps most effectively, the RCA team identifies the hazards that could occur in any hospital or any healthcare facility. In doing so, RCA teams have detected faulty models of pacemakers, fatal flaws with morphine pumps, defective procedures and standard errors before they have culminated in a tragedy.

The results of a study published in the *Journal on Quality Improvement* put out by the Joint Commission on Accreditation of Healthcare Organisations in the United States speak for themselves. In a study of 29 RCA reports, 100 per cent of the RCA reports identified human engineering type root causes of adverse events. Every single one identified at least one systemic problem that contributed to a potentially serious event compared with only 37 per cent of an alternative reporting system which tended to blame patient behaviour and course of disease as mitigating circumstances for reportable events. The benefits of the RCA system in this study are obvious. On the one hand there is a reporting procedure genuinely dedicated to fixing the problems in the healthcare system; on the other it is a system more concerned with buck-passing and blame laying than accepting responsibility for their failings.

Does this sound familiar to any other members? Perhaps if we carried out an RCA on Cairns Base Hospital where unqualified and/or unregistered doctors were employed and, despite the acting health minister having misled the parliament, engaged in clinical work beyond their ability and registrability, we would see that the problem was not the Cairns staff who employed them; the problem is with Queensland Health. The Beattie government has infiltrated the health department with its bureaucratic policies and top-heavy organisational structures headed by people hand-picked by the Premier to run Queensland Health in order for him to exert more influence and control over the health of Queenslanders. We see first the spin, the Health Action Plan—meaningless statements and catchphrases. Then comes the sacrificial sheep—the person who takes the fall. In the case of Cairns, we had Dr Ric Streatfield. The Deputy Medical Superintendent of Cairns Hospital was also acting as a district superintendent at the time the incident occurred. At the time when Dr Streatfield employed these questionable doctors, staff were scarce, the hospital was full and waiting lists were mounting.

None of this matters to the Beattie government if it makes them look bad. 'Heads will roll.' That is a direct quote from the health minister. Unfortunately, it does not stop. We also have diversion, where the Premier and the health minister will say that they are angry, frustrated and very unhappy with what has happened. They say sorry, but in the next breath they highlight that it is not their fault, they point the finger of blame at their own minions and announce another expensive review, royal commission, committee or audit of Queensland hospitals, despite the fact that the Forster and Davies reports have been relegated to the bookcase or to the to-do pile for 'consideration in the next budget'.

But the Premier and his government will use these reviews. They will put them through their costly spin cycle and then speak of innovative action plans and fix-it solutions. It is a very costly spin cycle indeed. Perhaps the government and the Queensland Health bureaucrats should learn to haggle with their PR tenders. These outsourced spin doctors see a Beattie bureaucrat coming and increase their fee twofold.

If we carried out an RCA on Queensland Health, we would find that the core of the problem lies in this chamber. The Premier and the health minister have created the bureaucracy. They have fashioned this culture of blame. I note with interest that the bill as it pertains to RCAs has to reiterate that RCA is not a blame-laying process. In division 6, the government has outlined protections discharging the liability of participants to the process. Obviously, it is important to have these protections codified in statutes, but it is interesting to note that the health minister should go to such lengths in his second reading speech to stress that the RCA process will not be used to apportion blame. Clearly, this is a concept so foreign to Queensland Health under this government that it is absolutely necessary to keep repeating this mantra in the hope that the minister's staff on the ground will buy it. It is a sad reflection on this government that, in the 14 months since 'Dr Death' and after the Forster inquiry and the Davies royal commission, not much has changed on the ground.

Last week the Gold Coast Cancer Services Action Group met for the first time. I note that the minister dealt with the question of oncology services on the Gold Coast. The person involved had resigned from Queensland Health so that she could be heard. She said—

I did everything I could in Queensland Health to get this solved. But at the end of the day I felt I could be more effective outside the system. If you speak to the media it's a sackable offence.

The root cause of her problem was a system where fear is endemic. Staff will not speak up. I note that the member for Burnett is in the chamber. I know he can attest to the things I am speaking about. Even when people know that the root cause is the process, or the system, they will not talk. They have been gagged and they have mortgages to pay.

Despite the serious reservations the Queensland coalition has about the Beattie Labor government's commitment to the RCA process, given its track record in blame laying, I believe that if the RCA process is implemented with the guiding principles outlined in new section 38J of the bill it will prove beneficial to the embattled Queensland health system. This view is one shared by the Queensland Medical Board and the AMAQ, which informs me that this section of the bill that amends the Queensland Health Services Act 1991 establishes a legislative and protective framework for something that already happens to some degree in Queensland Health. They are generally supportive of it.

The *First Queensland health report on clinical incidents and sentinel events* illustrates the real progression we can make if RCAs are implemented properly and acted upon. That is the crucial element. An investigation into how a patient could be administered a fatal overdose of morphine found that there was a small but deadly discrepancy between different models of infusion pumps. The devices are the same but for one considerable difference: one of these devices infuses morphine into the vein in milligrams per hour, the other in milligrams per 24 hours. When we are talking about a drug as lethal as morphine, that is a frightening disparity. Because of a simple error or oversight, the patient in question was injected with the entire contents of the syringe, which was meant to last 24 hours, in only one hour. Alarming, this was not the first time that had happened, either. However, once an RCA was carried out, the hospital's administration was able to remove one of the device types so that the same equipment was used

constantly. Furthermore, the manufacturer and the Therapeutic Goods Administration was informed. They have subsequently taken action to ensure that such a tragic outcome never occurs again.

In another case, a simple change of procedure has had a marked outcome on patient numbers adversely affected by anticoagulation, or blood thinning therapy. The RCA report found that the root cause of a significant number of overdoses—50 per cent, in fact—was simply the time at which the drug, Warfarin, was administered. Winding back the time two hours from 6 pm allowed a patient's regular doctor to administer medication rather than a duty doctor who was unfamiliar with the patient's condition and treatment. Another constructive outcome of a tragic flaw was that this potentially fatal drug was added to the bedside medication chart so that the blood density target range and dosing guides are readily available to hospital staff.

I am heartened by the fact that some of these events reporting occurs already, because it gives Queenslanders a reason to have confidence in their health professionals. It is not the hardworking doctors, nurses, allied health staff and others who are keeping our hospitals running who are at fault; it is the Beattie government, which is failing to provide Queenslanders with a decent public health service. I hope that this is just another step in the very long journey ahead for the Premier and the health minister in fixing our sick system.

I am concerned, though, about having confidence in the Labor government with respect to establishing this protective and needed framework for current practices in any sort of timely fashion. I make this comment in light of the fact that these amendments are in line with the recommendations of the Forster review which were made back in September 2005. It is now May 2007. The implementation of these recommendations and others concerning the development of legislation that encourages and protects good-quality and safety assurance analysis within public sector health services should have been priority No. 1 for this government.

The implementation of RCA has been delayed, just like the extradition process of Patel, just like the review of the Liquor Act, just like the Alert Doctor Strategy. This government's much vaunted Health Action Plan has been delayed from the get-go, not to mention the fact that much-needed hospital upgrades in Mackay, Cairns and elsewhere will not spend one dollar on expanding infrastructure and services until the hospital master plan is completed. More plans—

**Mr ROBERTSON:** I rise to a point of order. The member is misleading the House. That is not correct with respect to the expansion of services at either of those hospitals. I ask him to withdraw.

**Mr LANGBROEK:** I am happy to withdraw. The explanatory notes make some interesting remarks with respect to RCA. The notes states—

... adverse events commonly result from a combination of individual, team, organisational and environmental factors.

This statement is supported by the study to which I referred previously, which found that a massive 93 per cent of all reportable events occurred because of communication breakdown, a further 72 per cent of cases could be attributed to inadequate training, 55 per cent to deficient policies and procedures, and 52 per cent to environmental factors. The explanatory notes also state—

The success of RCA depends on voluntary participation by individuals involved in reportable events.

In light of that statement, this House must recognise that the success of RCA is going to be achieved only if the organisational and environmental problems dogging Queensland Health are addressed. RCA must be implemented at the same time as other steps are implemented to achieve cultural change.

If the Labor government is looking for inspiration on where to begin, I suggest that it begins by looking at the Forster and Davies reports and reading some of the recommendations contained within them. Let us not lose the momentum by stopping with RCAs. Currently, the Deputy Premier and Treasurer is busy drawing up this year's balance sheet. Let us see some of these recommendations implemented. Believe me, the cost in the long term will be far less.

If the Labor government made a real commitment to changing the toxic culture of Queensland Health, it would find that voluntary participation in RCAs would be more likely to be embraced by clinical staff if a lack of fear in reporting events is filtered through the organisation. A way of achieving this is through strengthening whistleblower protection—something the Queensland coalition has been suggesting for years. Voluntary participation in RCAs will increase when employees are not dogged by stressful work environments. A way of achieving this is through following the recommendations of Forster with regard to working conditions, restoring bed numbers, safe working environments, just salary arrangements, peer support, ongoing training, country service rotation and regulated working hours—the same strategies that the Queensland coalition has been suggesting will retain the health professionals that Queensland recruits.

RCA is an essential tool in developing an organisational culture that is necessary for improving safety and quality. But it cannot be the only one. If RCA is not complemented with better working conditions and stronger whistleblowing programs it will be seen as a tool that may be used to blame or

punish health workers or seen as yet another burden in an already stressful, overbureaucratic working environment and RCA is unlikely to achieve the benefits that it could. RCA will not be the answer to Queensland Health's cultural problems if it is not complemented with other tools.

From the research that I have done on RCA, I have come to believe that it is a genuine learning system, although I am sure that Queenslanders would forgive me for being cynical of the Labor government's real commitment to this initiative. Before and after studies in the US where like systems have been put in place show that after intervention through such a scheme a significantly increased number of events thought to be preventable were observed and reported. This is a desirable direction from Queensland Health as the more often an event deemed to be preventable is recorded, the greater the chance that preventable actions will occur.

I have mentioned whistleblowing protection as a means to ensure voluntary participation and a step towards cultural change. Whistleblowing protection and providing a framework for reporting events is one thing; allocating statutory privilege, which this bill affords, to information and documents produced for RCA purposes is potentially a different thing. As the Scrutiny of Legislation Committee has noted, conferring immunity such as this from proceedings and prosecution requires adequate justification. Immunity from civil proceedings is afforded through new section 38ZD to a health worker who acts honestly and without negligence, but further justification is probably necessary here. Sections 38O to 38Q set out circumstances under which an RCA may be stopped by either the RCA team or commissioning authority which would effectively bring the privilege attaching to RCA to a stop as well.

The bill prescribes that an RCA must be stopped if the team or authority reasonably believes the event involved a blameworthy act, which is defined under section 38O to mean an intentionally unsafe act, deliberate patient abuse or conduct that constitutes a criminal offence or when capacity is affected negatively by drugs or alcohol. This seems to duck around the issue of granting a blanket privilege to RCA documents but at the same time a lot comes down to the definition of 'blameworthy act'. The definition afforded under section 38O is still subject to a broad interpretation and does not protect a health worker from doing a blameworthy act caused by a faulty protocol put in place by Queensland Health, for example. I would suggest that the term 'blameworthy act' may need further attention even though I concede it needs to be there in some form to ensure that the privilege the bill affords is not abused.

I would also like to note that an RCA may also be stopped if the commissioning authority becomes aware that a relevant entity has started an investigation of a reportable event, with relevant entities being the Health Quality and Complaints Commission, a coroner, a police commission, boards under the Health Practitioners (Professional Standards) Act 1999 and others, which is a welcome addition to this bill.

I also agree with the requirements in this bill that RCA provisions be reviewed within two years of commencement to ensure they adequately meet community expectations and remain appropriate. It will be very interesting to see whether RCA shows itself to be a mechanism for cultural change or whether it is left to do the job by itself, which is not a desirable outcome. I stress to the Premier and the health minister that the biggest challenge for Queensland Health with respect to the establishment of RCA is what it will do with the information that will come to light as a result of the process.

Once a comprehensive, disciplined and accurate RCA has been conducted, these invaluable recommendations must not fall on deaf ears or, worse, be shelved alongside Forster and Davies. If the RCA process identifies systemic and organisational problems which are contributing to adverse events, the government and Queensland Health must ensure these problems are eliminated so as to ensure that these types of events do not occur again in the future. This is of utmost importance, otherwise again this bill will be nothing more than token legislation that fits in with the government's facade that it is fixing Queensland's health system.

Before I move on, I would like to note the following principles adapted from the New South Wales Patient Safety and Clinical Quality Program. I believe it offers some valuable guidance to the implementation of RCA in Queensland, and I would like to see them adopted in Queensland Health. That report provides that errors are reported and acknowledged without fear of inappropriate blame and patients and their families are told what went wrong and why; the system is oriented towards learning from its mistakes and staff are supported to participate in improvement activities; the obligation to take action to remedy problems is clearly accepted and the allocation of this responsibility is unambiguous and explicit; the limits of individual accountability are clear—individuals understand when they need to be held accountable for their actions; and individuals are treated fairly by the organisation and are not blamed for failures of the system.

I also note here that blameworthy acts are clearly defined by the New South Wales Patient Safety and Clinical Quality Program. I respectfully suggest that the minister reference this definition when refining this bill. The program also provides that action to address problems is prioritised according to the available resources and directed to those areas where the greatest improvements are possible; and, finally, teamwork is recognised as the best defence against any system failures and is explicitly encouraged and fostered within a culture of mutual respect.

I now turn to the amendments this bill makes to the Mental Health Act 2000. These amendments come after the final report of the review of the Mental Health Act 2000, *Promoting balance in the forensic mental health system*, which was handed down by the author Brendan Butler AM SC in December with 106 recommendations. Members should note that number—106 recommendations. The review was commissioned by the health minister in May last year, more than four years after Mullen and Chettleburgh released their review of Queensland forensic mental health services with its recommendations back in 2002. The summary of the latest report states—

After extensive consultations with a broad range of stakeholders the Review has formed the view that further reform is required to serve the legitimate needs of victims of crime and to enhance public confidence in the system dealing with forensic patients.

It goes on—

Fair and compassionate treatment of forensic patients need not limit the capacity to protect the public from harm and provide victims of crime with the support they need.

Unfortunately, it seems that the short-sighted vision and allocated budget of the Beattie government with respect to mental health will limit the implementation of the required reform as outlined in the December final report. Of the 106 recommendations, this bill will achieve only 10 of them. This leaves the other 96 recommendations aimed at balancing the rights and needs of people with mental illness with the rights of victims of serious violent offences and their families contained in the weighty tome on the 'to be considered pile' or, more likely, on that proverbial bookshelf collecting dust next to the reports of Forster and Davies.

The health minister stated in his second reading speech that the remaining recommendations from Mr Butler's report are being fully considered as part of the 2007-08 budget. I will be interested to see how many more recommendations from the Butler report are financed in the upcoming budget. I am not sure about the other members in this chamber, but being told that the implementation of required reform to the Mental Health Act is being halted because of budgetary considerations is fairly hard for me to stomach.

I find it hard to accept that Queensland has no money to implement at least a few dozen more of the Butler recommendations because the Deputy Premier and Treasurer too often stands up in this House and spruiks her budgetary surplus. I find it hard to accept, because even though this Labor government spends a record \$6.65 billion on health, there are still gaping holes in the health system. Even with a budgetary increase in 2006-07 of \$1.3 billion, our public health system is still struggling, with an estimated \$300 million needed to be poured into mental health alone to bring the system up to scratch, according to the president of the AMAQ, Dr Zelle Hodge.

I also find it hard to accept that over 90 per cent of Butler's recommendations will be delayed, because I have read all 106 recommendations and find them to be reasonable and practicable. I invite members to consider how fair and reasonable the 96 recommendations that are not being addressed through this bill are and to question why they have been put on the backburner. I also invite the Premier and the health minister to front the victims and families who contributed to this latest review process and try to convince them that their efforts are not in vain. I suspect they will not have much joy.

When we look at the motive behind this latest review of the Mental Health Act 2000, once again we see the Beattie government's manipulative machine in action. Despite having ignored most of the recommendations of the preceding Mullen and Chettleburgh review from 2002, the health minister was in serious damage control when he announced the Butler review. It was only after the *Gold Coast Bulletin* splashed a story about how a crazy killer, who was never brought to trial because a tribunal had deemed him insane, was released and allowed to sip coffee at Chevron Island in my electorate, only 300 metres from where he violently stabbed and killed a teenage girl. Robyn Wuth and Sue Lappeman from the *Gold Coast Bulletin* revealed how psycho killer Claude John Gabriel was granted day release with only his parents as chaperones on 12 occasions between March and May last year. Gabriel was granted day release overseen by his parents—the same people who were charged and convicted of aiding him to flee the country to Europe to escape the arm of the law.

Back in 2002 I can remember the Premier vowing that this would never happen again because, as an ordinary citizen, I could not believe that a government could let this happen. The fact that the Premier has continued to allow this to happen is outrageous. He will try to argue that his government has taken action, that it has clamped down on the unjust and heartbreaking disparity between the rights of mental patients and the rights of their victims and their families, but this is untrue. Implementing only 10 recommendations out of a total 106 is lip-service. It is also an insult to Mr Butler and the hundreds of stakeholders who were involved in the review, including victims and their families who endured the whole emotional process because they wanted to ensure this would never happen to other families.

On 10 June last year, the Premier is on the record having declared he was on the warpath. With his hand over his chest and a solemn look on his face, Mr Beattie assured Queenslanders that 'victims and their families will come first after the review', but it was all an untruth. He will defend himself and the health minister and he will continue to make statements without substance, of which he is a master. The victims

and families of violent crime perpetrated by mental patients do not want hollow promises; they want justice. Handing out 'get out of jail free' cards to insane killers is not justice.

At the end of the day, the Hon. Premier Beattie is the leader of Queensland and he has the power to initiate change. If Labor government members think for a minute that 10 token changes to mental health legislation is going to make a difference, they are fooling themselves. As I have already mentioned, the AMAQ has estimated it would cost Queensland \$300 million to fix this system if we started taking action today. The longer the Premier and the health minister wait, the longer the costs stack up, and I would hate to be them when the Deputy Premier and Treasurer calls them in to plead why she should pour money into a health system that is not paying dividends.

Having said that, if we have any chance of fixing the health system, the Labor government needs to put aside the balance sheet and frugal fiscal targets and consider clinical outcomes. I call on the health minister to publicly release the information his department used in considering the budgetary implications of all 106 recommendations of the Butler review, which I can only assume they conducted in order to come up with these reasons as to why they could not be considered until after the next budget.

I call on the minister to reveal this information so the families of victims of heinous crime committed by mentally unsound persons can fully understand why the bottom line is worth more than their child's life. I call on the minister to reveal information because, without it, this minimalist follow-up on the review of the Mental Health Act is too hard for me to accept, let alone those Queenslanders hurting as a result of too many years of apathy and inaction by the government.

On the morning the minister made his second reading speech about this bill, his spin doctors put out what I considered to be an unbelievable press release. 'Mental health changes to enshrine rights of victims' was the headline. It stated—

The rights of victims of violent offenders will be enshrined in changes to Queensland's mental health laws being introduced in Parliament today by Health Minister Stephen Robertson.

Then there was a quote from the minister—

The Premier and I gave a commitment in December that one of the first bills we would introduce in 2007 would be to amend the Mental Health Act 2000 to create a clearer focus on victims.

I am delivering on that commitment today.

Of the review's 106 recommendations, 54 related to reforming the rights of victims. Only nine of those 54 recommendations are being delivered on by the minister with this bill. If we accept that this bill is a delivery of the Premier's and the health minister's commitment to the victims of violent mental health offenders, as the press release put out by the minister's office asks us to do, we must accept that fulfilling 10 per cent of the reform required under the review is what the government is willing to deliver.

The health minister is insulting the people of Queensland if he thinks they are going to passively accept the spin in his press releases. Let me attempt to strip away the sugar coat shrouding the first recommendation that this bill will implement. Recommendation 3.1 states—

That the provision stating how the purpose of the *Mental Health Act 2000* is to be achieved be amended to provide that community protection and the needs of victims be taken into account in decisions relating to forensic patients.

All that recommendation is doing is amending the stated purpose of the Mental Health Act at section 4. Clauses 28 and 29 of the bill are essentially mere rhetoric. These amendments, borne of the report's recommendations, do not bring measures into the Mental Health Act to actually provide community protection and take into account the needs of victims.

The means by which the Mental Health Act is to achieve its new purpose are outlined in recommendations 3.2 to 3.54, of which eight are being achieved through this bill. This chapter is called 'Victims' rights, needs and interests'. Chapter 4 is called 'The forensic mental health legal process'. One out of 24 recommendations is to be implemented from this chapter. No recommendations are to be implemented from chapter 5, 'Intellectual disability and the forensic process'. None of the 19 recommendations will be implemented from chapter 6, 'Managing risk', and none of the eight recommendations from chapter 7, 'Community awareness', will be implemented. Out of 106 recommendations only 10 are realised in this bill.

I had intended to read into the *Hansard* the omitted recommendations but time will defeat me. I wanted to do that to illustrate two major points. First, it would have illustrated the Premier's and health minister's blatant lack of commitment to enshrining the rights of victims and their families in statute. So much for the war that the Premier referred to on 10 June last year. I would hate to be on his front-line. Second, it would have illustrated that the recommendations handed down in the review of Queensland's Mental Health Act are practical changes that would actually achieve the positive changes the minister promised this bill would effect. Furthermore, it would illustrate that these recommendations are reasonable—so reasonable that it beggars belief as to why the Premier and the health minister would

short-change Queensland's mental health services but, more importantly, why they would treat victims and their families with such contempt.

The recommendations that are being introduced to the Mental Health Act 2000 through this bill are very much supported by the Queensland coalition, but the coalition supports most of the 106 recommendations, 96 of which will not see the light of day. I do note, however, that the bill will allow for the appointment of one or more additional judges to the Mental Health Court to help address the rising workload of the court. This is a positive outcome for Queensland.

I repeat my request to the minister and the Treasurer to explain or release the information they have received that led to the conclusion that the other 96 recommendations could not be delivered until the next budget. Unfortunately, the enshrining of rights that the Premier and health minister said they would deliver with this bill will not be achieved until the remaining recommendations are implemented. In reforming Queensland's mental health program and regime in general, I would advise the health minister to be mindful of a famous quote from John F Kennedy: 'There are risks and costs to a program of action, but they are far less than the long-range risks and costs of comfortable inaction.'

In closing, I reiterate the coalition's in principle support for the bill. I ask the health minister to consider our suggestions and concerns. I look forward to the minister addressing the Queensland coalition's position on this bill.