Speech by

Robert Messenger

MEMBER FOR BURNETT

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MENTAL HEALTH AND OTHER LEGISLATION AMENDMENT BILL

Mr MESSENGER (Burnett—NPA) (4.08 pm): In rising to address the Mental Health and Other Legislation Amendment Bill, I would firstly like to congratulate our shadow health minister on his speech in which he has shown once again that he is a sensitive, caring, thoughtful, intelligent and capable person who would make an excellent health minister. The Mental Health and Other Legislation Amendment Bill 2007 seeks to implement 29 recommendations from the Butler report carried out by Mr Brendan Butler AM SC on the Review of the Mental Health Act 2000, entitled *Promoting Balance in the Forensic Mental Health System*, which was handed down to this government on 8 December 2006.

The bill also makes minor amendments to various other health legislation, including the Nursing Act, the Food Act and the Public Health Act. The bill aims to provide the framework which allows victims and other approved persons to receive certain limited information regarding classified patients and forensic patients under a new chapter 7A; improve risk management processes, including providing legislative recognition for a particular category of forensic patients who have committed certain serious violent offences and requiring policies and guidelines to be issued about the treatment and care of forensic patients; and bring into line provisions regarding the submission and consideration of material from victims and concerned persons by the Mental Health Review Tribunal with those applying for the Mental Health Court. As well, there will be a streamlining of various aspects of the forensic legal process, including the transfer of some functions currently performed under the act by the Attorney-General to the Director of Public Prosecutions.

Under the new chapter 7A, classified patients refer to a person who is transferred from court or custody to an authorised mental health service. Those qualified to receive limited classified patient information under the amendments include victims of the offence; a member of the immediate family of a deceased victim, which includes siblings or the parents or the guardian of a victim under the age of 18; or a victim who has legal capacity. I note presently the act does not allow for information regarding classified patients to be disclosed to their victims. The final report, however, argues that—

> While personal information about the defendant's health and treatment should be protected, the strict confidentiality provisions fail to recognise the needs of the victims of crime. A better balance between the rights of patients and those of victims is necessary to protect the health of victims as well as patients.

It is also important to note that it is stipulated that applications are to be refused if, but not limited to, there is reasonable belief that the disclosure of such information will most likely cause serious harm to the health of the patient or endanger in a serious way the safety of the patient or another person. With regard to the provisions of information regarding forensic patients, a forensic patient is defined as a person who is the subject of a forensic order, an order of the Mental Health Court in relation to a person charged with an indictable offence whom the Mental Health Court declares was of an unsound mind when the alleged offence was committed, is unfit to stand trial for the alleged offence and the unfitness for the trial is of a permanent nature, or is unfit to stand trial for the alleged offence but it is not of a permanent nature. Again, the necessity to balance the rights of victims and the rights of forensic patients has been identified in respect of providing information regarding forensic patients.

Under recommendation 3.34, persons permitted to apply to receive information regarding forensic patients include the actual victim of the offence with which the forensic patient was charged; if the victim is deceased, an immediate family member of the deceased victim; if the victim is under 18 or has a legal disability, the victim's parent or guardian or another person who satisfies the tribunal that the person has sufficient personal interest in being informed. Under recommendation 3.6 with regard to determining whether a person has sufficient personal interest, it states that the tribunal must consider the nature, seriousness and circumstances of the offence that led to the patient becoming a forensic patient; the impact the refusal to grant the order is likely to have on the health, safety and welfare of the applicant; whether the making of the order is likely to have a significant adverse effect on the patient's treatment or rehabilitation; or any other matters the tribunal considers appropriate.

Such people who may be deemed as having sufficient personal interest include a person who was the victim of the offence that was committed; a personal attorney or personal guardian of the patient; a family member or dependant of the victim; or a family member, carer or dependant of the patient. It is stipulated with regard to classified patient information that the tribunal must refuse an application where it is reasonably believed that the release of the information is likely to cause serious harm to the health of the patient or endangers in a serious way the safety of the patient or another person. In addition, the tribunal may refuse an application if it is found that the application is frivolous or vexatious.

This debate gives me the opportunity to once again bring to the attention of the House how this government has neglected mental health in Bundaberg and the Burnett for such a long time—indeed, it has neglected the funding of health as a whole. This is very well documented in the Davies royal commission, which proves that this government has a less than glorious history when it comes to funding public health. I quote from page 347 of the Davies report under the heading 'Under-funding of Queensland Health by successive Governments', which states—

Queensland expenditure per person on public hospitals below the national average

... the Commonwealth Productivity Commission, which seeks to compare government services across jurisdictions, highlights a growing gap between Queensland expenditure per person on public hospitals and national average expenditure. The 2003 Productivity Commission report records that in 2000-01, Queensland recorded the lowest government real recurrent expenditure per person on public hospitals (in 1999-00 dollars) at $660 per person, well below the national average of $776 per person, a gap of $116 per person. This trend has continued. For the 2004 financial year, Queensland again recorded the lowest government real recurrent expenditure per person on public hospitals (in 2001-02 dollars) at $712 per person, well below the national average of $895 per person, a gap of $183 per person.

Further evidence of the significant under-funding of Queensland public hospitals can be found in *The state of our public hospitals*, June 2004 report, which claims, on different data, that Queensland's recurrent expenditure per person on public hospitals in 2001 was the lowest in Australia at $322, 13 per cent lower than the national average of $371 per person.

Commissioner Davies writes—

The most recent data, in *The state of our public hospitals*, June 2005 report, suggests that the gap in under-funding of Queensland public hospitals is growing. Queensland's recurrent expenditure per person on public hospitals in 2004 was still the lowest in Australia, at $440, now 20 per cent (worsening from 13 per cent) below the national average of $552 per person.

Laid out in chapter and verse in the Davies royal commission is the quite inglorious history that we have had in Queensland of spending on public health. There are also problems that Commissioner Davies points out with the defective allocation process of our public funds. He writes—

Successive governments used a 'historical funding model' to allocate health funding annually; that is, each budget was based on the budget for the previous year, indexed annually for labour and non-labour cost increases and supplemented for specific programs or election commitments. However, the amounts allowed for increases in labour costs were 'discounted' and were less than the real costs of enterprise bargaining increases.

On page 352 he continues—

The problems with historical budgets

Historical budgets were not based on the needs of a community, linked to clinical services promised or demographic trends, but on an original budget, fixed many years ago, updated in a rather mechanical way. This gave rise to at least three problems. The first of these was that, if the original budget was not fixed fairly to provide an adequate service, it would be unlikely that this mechanical updating would change that. As Dr Nankivell put it:

Our funding was based on what I call an historical funding model ... which basically means you have been dudded in the past, you are going to be dudded next year.

This certainly has happened at the Bundaberg Base Hospital. We have been dudded in the past. We have been promised a $41 million upgrade and that has not come, but we will see what we can get next year.

Mr Robertson: You've just got to be a bit more patient.

Mr MESSENGER: I take that interjection from the health minister, who said that we have to be a little more patient. Unfortunately, our patients and the families of patients who are dying on waiting lists cannot afford to be patient. Since my election in February 2004 I have consistently called for an independent review of the whole of the Bundaberg and district healthcare service. I have a steady stream of mental health professionals visiting or contacting me.

Mr Mickel: What? Were you on the couch?

Mr MESSENGER: I will take that interjection from the minister. I can remember one particular session in my office where a mental health professional came to me and told me about the bullying being carried out at the hospital under the then management. He told me quite plainly that he himself was thinking of ending it all and he was having suicidal thoughts. He then looked at his watch and said, 'Well, it's time for me to go.' I said, 'Wait a minute, where are you going?' He said, 'I'm going back to work.' He was going back to work at a place where he was expected to advise suicidal people while he himself was suicidal.

Mr Hoolihan: Did he give you any advice?

Mr MESSENGER: Yes, I asked him to seek advice and not to go back to work. This is the question that is facing our mental health workers right now. Many of those people do not have support themselves. Perhaps something we need to think about is the proper debriefing of mental health workers.

Back in May 2004 I introduced to this House three brave mental health nurses. Each had over 30 years of mental health service experience. They presented evidence and gave testimony which detailed assaults, maladministration and possible criminal behaviour occurring in the Bundaberg district mental health service. I congratulate those mental health nurses. I remember well the meeting that we had with the then director-general of the health department. It was quite an interesting meeting. As a result of those mental health nurses coming out, speaking out and blowing the whistle, they gave added courage to other mental healthcare workers to come out and blow the whistle.

People suffering from mental illness who were having suicidal feelings were presenting themselves to the Bundaberg Hospital Mental Health Unit only to be turned away and referred to community based mental healthcare groups such as Lifeline, gambling self-help groups and other mental illness recovery programs. The Bundaberg Hospital Mental Health Unit, which at the time had an occupancy rate of around 30 per cent, was not offering proper care to those people. Sadly, mental health professionals informed me that people were killing themselves after being turned away from the mental health unit.

I can vividly remember one specific case where a number of reliable health sources told me that a young man who presented himself to the Bundaberg Hospital Mental Health Unit a few years ago and asked for help was refused help and told to contact Lifeline. He was found dead just a few hours later. I also remember the story of a mother. I went around to her house and she talked to me about a similar case. Her elderly schizophrenic son had presented himself to the Bundaberg Hospital Mental Health Unit on a number of occasions. He did not receive help. Unfortunately, and tragically, she was woken up one morning by the sound of her son's body banging on the back of his bedroom door after he had hung himself. The heartache that parents go through when they are confronted with that situation is simply unbelievable.

On 25 March 2007 ABC Radio National aired a segment through *Background briefing* on the mentally ill in Queensland. Queensland psychiatrists blew the whistle and spoke about the gross inadequacies of the mental health system in Queensland which is placing lives at risk. Reporter Heather Stewart indicated that the program had researched the area in depth and found a great deal of evidence that Queensland's mental health system is in disarray ranging from, not surprisingly, serious medical neglect to bullying. The program made mention of the Bundaberg Hospital Mental Health Unit closure. I would like to share with members of the House some valid comments from this program. Reporter Heather Stewart stated—

Bundaberg, in Queensland's north, is still reeling from the impact of the Dr Jayant Patel scandal, yet months before the story broke, the region's in-patient Mental Health Service was closed down. And last year, while the Queensland Medical Board's case against the disgraced Bundaberg surgeon hogged the headlines, the region was struggling to cope with mental health patients being sent hundreds of kilometres away to Rockhampton and Nambour for in-patient psychiatric care.

Mental health advocate and councillor Mary Walsh responded—

I think it's crazy to accept that you could have something like Dr Patel in this city and then have the closure of the mental health unit, which has gone on for 18 months. The Patel issue was an indication of systemic failure within Queensland Health. The Mental Health Unit closure is exactly the same.

They've managed to keep the two apart, but they are inextricably linked, and until they accept that and work towards fixing the system, then I don't think much will change. But in the end, it's required from the State government that this unit be opened, that it continues to provide the essential services for this region, that it does. The Queensland State government needs to put a little bit more understanding of the basic issues here. Stop trying to protect themselves and the system. Admit the system's broken, and fix it.

Helen Jones said—

If it was a message to the Minister, I would ask him to stop listening to the bureaucrats and stop listening to the red tape and please listen to the people who are actually affected by it. Then work the system from the bottom up, not the top down.

Another mental health professional who quit her job at Toowoomba's public mental health service last year and came out publicly on the program was visiting senior consultant psychiatrist Dr Vicki Degotardi. The program revealed Dr Degotardi, along with a colleague, had been seeking whistleblower protection status for almost 14 months. Dr Degotardi, who wrote to the Minister for Health, the Director-General of Queensland Health and the Director of Mental Health and also to the local officials to voice her

concerns, expressed disappointment that not enough was being done to address her concerns. Dr Degotardi stated—

My most serious concern is the bureaucratisation of medicine and the infiltration of politics too deeply into the medical field, with managers making decisions rather than clinicians and essentially doctors.

With them over-riding clinical decisions on many occasions to the detriment of the patients, but also the staff. I think both patients and staff are being damaged in the process.

Importantly, another issue which was discussed on this segment was the Queensland government's expenditure on mental health. It was stated that the Queensland government is now expending $600 million on mental health and that there are plans in place to spend more money which could possibly be announced next year.

The Queensland branch president of the Australian Medical Association, Zelle Hodge, responded to the government's plans suggesting that this would not be enough for Queensland to catch-up and fix the system. Zelle Hodge stated—

We are hundreds of millions of dollars below the funding level that we need in Queensland to provide the services. So I think that is an absolute message, and with the Budget coming up, I think that is the message that we want to get through to the Queensland government.

I would also like to take this opportunity to praise the work of a number of organisations operating in Bundaberg which assist mental health consumers. I do not really like the word 'consumer'. I would rather say the word 'patient' because I think 'consumer' is almost corporatising and dehumanising the whole business. Their families deal with mental health issues.

There are a number of services in my community offering assistance which I will briefly list. The Association of Relatives and Friends of the Mentally Ill is a support group aimed at helping carers cope with their relative's or friend's mental health problem. Bridges Clubhouse is a recovery focused program assisting adults with mental illness and mental health disorders regain or develop skills and confidence in order to improve their quality of life. The Bundaberg Consumer Advisory Group, BCAG, is made up of patients and carers within the community and aims to promote patient and carer empowerment with mental health. Membership is open to all mental health patients. There is also Kickstart and the women's mental health support group which provide an opportunity to expand friendship networks, access information, books and videos, emotion support and education.

In Queensland in the 21st century we are facing an unprecedented threat from 21st century drugs. I have mentioned ice, methamphetamines, hydroponics and cannabis. It reminds me of a conversation I had with a group of parents called POTY—parents of troubled youth. All of those people had the same story. One lady said to me, 'The night I got the phone call to say that my 17-year-old son was in jail was the night I had my best night's sleep because I knew I would not get the phone call to say that he had been found dead in the gutter with a needle in his arm.' Every one of those parents had the same story. They were not empowered. They wished that in Queensland there was some ability for parents to involuntarily detox their children. At the moment that does not exist here. I think it is something that we should start thinking about seriously. Along with that policy comes the need to have more mental health infrastructure.

I would like to mention the police. They have become the de facto mental health workers. There were at least 12,000 incidents up until May this year involving police. We need more assistance there. I support the bill.