




Speech By
Hon. Cameron Dick

MEMBER FOR WOODRIDGE

Record of Proceedings, 15 July 2015

**PUBLIC HEALTH (CHILDCARE VACCINATION) AND OTHER LEGISLATION
AMENDMENT BILL**

Introduction

 **Hon. CR DICK** (Woodridge—ALP) (Minister for Health and Minister for Ambulance Services) (4.45 pm): I present a bill for an act to amend the Health Ombudsman Act 2013 and the Public Health Act 2005 for particular purposes. I table the bill and the explanatory notes. I nominate the Health and Ambulance Services Committee to consider the bill.

Tabled paper: Public Health (Childcare Vaccination) and Other Legislation Amendment Bill 2015 [791].

Tabled paper: Public Health (Childcare Vaccination) and Other Legislation Amendment Bill 2015, explanatory notes [792].

This bill delivers on the Palaszczuk government's commitment to better protect young and vulnerable Queenslanders from vaccine-preventable conditions. It will amend the Public Health Act 2005 to clearly protect approved childcare centres if they decide to exclude children whose immunisation status is not up to date. The bill will also amend the Health Ombudsman Act 2013 to ensure that the Health Ombudsman has the information-gathering powers necessary to perform his duties effectively.

Vaccination is a critically important public health strategy and is a key health priority of the government. Immunisation has long been recognised as one of the most successful public health interventions introduced in Australia, enabling community health to be maintained and protected by the reduction and eradication of vaccine-preventable conditions. Queenslanders support immunisation. This is validated by high childhood immunisation rates in Queensland of approximately 92 per cent. However, over 15,000 Queensland children aged under five are not fully immunised, which falls short of the 95 per cent target required to achieve herd immunity for diseases such as measles. Herd immunity prevents the transmission of highly contagious conditions, such as measles, and protects those who are not immunised, such as babies who are too young to be immunised and people who are immunosuppressed.

Labor has long recognised this as a problem we need to address. During the 54th Parliament, when in opposition, the member for Bundamba introduced a private member's bill in similar terms to this bill that would have empowered childcare centres to refuse enrolments from children who are not vaccinated. Sadly, the then government chose to vote down that private member's bill and offered no alternative legislative change in this area. I am proud to be part of a government that is now prepared to make reforms that are aimed at improving immunisation rates in our community.

The bill makes a number of amendments to the Public Health Act 2005 to promote immunisation and protect children, their families and those who work with children against vaccine-preventable conditions. The bill authorises approved early childhood education and care services to exercise a

discretion to refuse, cancel or place a condition on the enrolment or attendance of a child whose immunisation status is not up to date. The Public Health Act 2005 currently protects a childcare centre from liability where the centre excludes a child with a contagious condition or if the child is at risk of contracting such a condition. A childcare centre is also free to exclude a child solely on the basis that they are not fully immunised. However, such a decision does not attract any legislative protection from liability.

The bill does not require the childcare centre to exclude a child. Instead, the bill protects the centre from liability if, after following a prescribed process, a child's enrolment or attendance is refused or cancelled on the basis of their immunisation status. This process involves the childcare centre requesting the parent provide an immunisation history statement. This statement, issued by the Australian Childhood Immunisation Register, specifically notes whether the child's immunisation status is 'up to date' or 'not up to date'. There are many ways in which such a statement may be obtained, including online or at Medicare offices. Should a parent have difficulty obtaining the statement or if they prefer to only deal with their local healthcare provider, as may occur in remote Indigenous communities, the bill extends the meaning of an 'immunisation history statement' to include a statement about a child's immunisation history given by a recognised immunisation provider. This process may further include an agreement between the childcare centre and the parent on a reasonable time frame to obtain an immunisation history statement or provide a catch-up schedule approved by a recognised immunisation provider.

Even if the parent fails to produce the statement or the statement reveals the child's immunisation status is not up to date, the childcare centre may still enrol the child or allow the child to attend. Childcare centres are encouraged to take into consideration a child's circumstances when utilising their discretionary power under the act. If the centre reasonably believes the child is a vulnerable child, and refusing enrolment or attendance would not be in the best interests of the child, they may choose to enrol or accept their attendance despite the child's immunisation status not being up to date.

At its heart, this bill empowers approved education and care services with the ability to make decisions about who they allow into their care. The bill will only apply to education and care services approved under the Education and Care Services National Law (Queensland) Act 2011 and the Education and Care Services Act 2013. This includes family day care services, kindergarten services, long-day-care services, limited hours care services and outside school hours care services. As unregulated or unapproved education and care services are often short-term, ad hoc arrangements—for example, nannies and babysitters—the proposed legislation will not extend to unregulated or unapproved services. I also wish to indicate that the government is committing to a review of the operation of the legislation after two years to monitor how it has performed against its objectives and whether any further changes are necessary.

The bill also contains an unrelated health legislation amendment, to the Health Ombudsman Act 2013, to clarify the Queensland Health Ombudsman's information-gathering powers. Presently, this act gives the Health Ombudsman power to require a person to give information in the course of an investigation. However, the Supreme Court recently ruled that this did not extend to compelling a person to attend and answer questions. Without such full powers, the Health Ombudsman may be unable to effectively undertake investigations into serious healthcare complaints.

The amendments will expressly empower an authorised person to require a person to attend before them, at a stated reasonable time and place, to answer questions or produce documents. The amendments retain existing safeguards, being that a person may refuse to answer a question or produce a document on the ground of self-incrimination. These amendments will ensure the Health Ombudsman's powers are consistent with the information-gathering powers of the former Health Quality and Complaints Commission and the provisions in the Health Practitioner Regulation National Law Act 2009, which regulates less serious disciplinary proceedings for registered health practitioners in Queensland.

The amendments will apply retrospectively to validate notices already issued under the existing provisions. Applying the amendments retrospectively will ensure that information obtained and decisions made since the act commenced in 2014 are not invalidated because of defects relating to the issuing of notices. The amendments will give certainty to those persons who have been involved in matters before the Health Ombudsman, being matters involving serious healthcare complaints.

Persons who have not complied with notices requiring them to attend and answer questions during this time will not be unfairly impacted. The bill makes clear that a person will not have committed an offence for failing to comply with such a notice prior to these amendments commencing. I commend the bill to the House.

First Reading

Hon. CR DICK (Woodridge—ALP) (Minister for Health and Minister for Ambulance Services) (4.53 pm): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Referral to the Health and Ambulance Services Committee

Mr DEPUTY SPEAKER (Mr Furner): Order! In accordance with standing order 131, the bill is now referred to the Health and Ambulance Services Committee.