Speech By

Hon. Cameron Dick

MEMBER FOR WOODRIDGE

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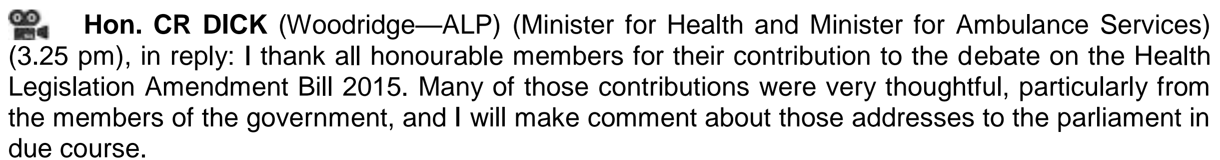
HEALTH LEGISLATION AMENDMENT BILL



Hon. CR DICK (Woodridge—ALP) (Minister for Health and Minister for Ambulance Services) (3.25 pm), in reply: I thank all honourable members for their contribution to the debate on the Health Legislation Amendment Bill 2015. Many of those contributions were very thoughtful, particularly from the members of the government, and I will make comment about those addresses to the parliament in due course.

The second reading debate could be characterised as being in two parts effectively. On one hand we had bipartisan support for amendments to introduce a menu labelling scheme that will benefit all Queenslanders. On the other hand we witnessed what could only be described as unnecessary and unreasonable criticism about sensible and what would otherwise be regarded as uncontroversial amendments recommended by my department to improve the operation of two Health portfolio acts, namely the Health Ombudsman Act 2013 and the Hospital and Health Boards Act 2011. The contributions made by LNP members on amendments proposed to these acts demonstrated the LNP's profound reckless and wilful ignorance of the importance of effective governance arrangements, cabinet processes generally and the provisions of both the current Hospital and Health Boards Act and the Health Ombudsman Act.

I will first turn to the contributions made to the debate about menu labelling. I do want to thank all members for their support for the menu labelling scheme amendments to the Food Act, which will deliver a key election commitment for the Palaszczuk Labor government. I do want to comment on the thoughtful address by the member for Ipswich. All of her contributions in this place are thoughtful. I must make a declaration that my father was a butcher. After returning from the Second World War he worked on a property west of Bundaberg and then he started a small business with his brother, my uncle, Milton Dick. They worked together for many decades after that. It is fair to say that my father did not understand vegetarianism. He was a very tolerant man and a thoughtful man, but he had no comprehension of vegetarianism.

I do thank the member for Ipswich, because at the heart of her address to the parliament was that we all must take care for what we consume. We all must be aware of what we consume and in particular the energy content of what we consume. It is not just the labelling of menus that is important in this proposed legislation; it is the number, 8,700 kilojoules, which is the recommended daily energy intake for an adult in Queensland. That is a number that we should all be aware of. When we are consuming food during the day—and, of course, it depends on the energy we use which may vary depending on occupation and employment, physical activity and recreational pursuits—we must be mindful of that. I thank the member for Ipswich for her contribution.

I also want to thank the organisations that made submissions to the committee in support of the menu labelling amendments. The member for Thuringowa reminded us of the important role our key health organisations play. I want to acknowledge the important work of those stakeholders. I was pleased to see the support for the menu labelling scheme, and not just from the Heart Foundation and

Diabetes Australia, but also from the AMA Queensland, the Queensland Law Society, NAQ Nutrition and the Royal Australasian College of Physicians. As members and stakeholders have noted, obesity rates are at unacceptable levels in our communities. The costs to individuals, their families and the community are also unacceptable and demand action. The goal of the menu labelling scheme is to help reduce the burden of obesity by ensuring Queenslanders can make informed choices at the counter or in the drive through of fast-food restaurants.

The scheme will ensure that people going into a fast-food store to buy a quick dinner or a treat for the kids will have easy-to-understand information about the energy content of the food on offer compared to the average daily energy intake. For example, a menu board may show that a meal deal of a burger, large chips and a large soft drink has more than 5,000 kilojoules. When put in context of the average adult energy intake of 8,700 kilojoules a day, it will be clear that this one meal is over half of the average daily intake for adults. We all know that particular foods are high in kilojoules, but I know I have been surprised to see just how high in kilojoules some fast foods are, including sometimes the so-called healthier choices. That is why this information is so important. It will allow the consumer to make an informed choice not just for themselves, but also for their children and others in their care, and to hopefully change behaviour. I am also hopeful that requiring the display of this information may encourage fast-food outlets to change their menus to include truly healthy choices.

The scheme balances the need to inform consumers with the cost of business. The prescribed display requirement will be mandatory for larger businesses, including fast-food chains, but will be voluntary for a range of other enterprises. Standard food outlets that are not captured by the mandatory scheme but that choose to voluntarily display nutritional information will be required to comply with the prescribed display requirements. This will ensure the consistent display of nutritional information to consumers. Food outlets will have 12 months to comply with the display requirements, and during this time the Department of Health will work with businesses—and I have asked the department to do that—to assist with transitional issues and conduct consumer education activities.

Last month I tabled the government's response to the former Health and Ambulance Services Committee which outlined the proposed menu labelling education strategy. This education strategy will support businesses to comply with the new requirements and educate consumers to understand the nutritional information and make healthier choices. As part of the Healthier, Happier, Straight Answers campaign we will dispel myths about diet and exercise and provide information to help Queenslanders get healthy. I am very excited about that program and its rollout.

I would like to briefly address the issues raised by members opposite about the menu labelling scheme. I was pleased to hear the member for Caloundra agree that the proposed scheme will have an impact, and today I acknowledge the opposition's in-principle support for food menu labelling. I also acknowledge that individuals must take responsibility for their own behaviour, including their food choices. Ultimately there is only so much that governments can do, but a well-informed consumer can make the right choices. However, as members of this House we are in a unique position today to ensure that when making these choices Queenslanders have as much information as possible to help make informed decisions that could improve their health and wellbeing.

The member for Caloundra thought some food businesses would merely pay lip-service to the requirements. I am advised that the opposite is true. Experience in Queensland and other jurisdictions suggests that businesses make every effort to comply. My department recently completed a baseline survey of food businesses voluntarily displaying kilojoule content. Every sample taken showed that the kilojoule content was being accurately displayed with only a small margin of error. This is a cause for optimism. If these results are replicated when the scheme is implemented, consumers can reliably expect kilojoule information to be accurate. However, in the event this optimism is unfounded and the odd food business chooses to deliberately mislead consumers about the kilojoule content of their food, the bill contains significant financial penalties for both individuals and corporations. A corporation found to have intentionally breached the requirement to display nutritional information will face a maximum penalty of $294,500.

I thank members and stakeholders for their support of other amendments in the bill; for example, the amendments to the Public Health Act to streamline access by midwives to information held on the Pap Smear Register. As the member for Nudgee points out, the Pap Smear Register helps save lives. These amendments facilitate that important goal. I would particularly like to commend the Australian College of Midwives for their advice to the committee and support in relation to these amendments.

I am also pleased to see support for the amendments to the Pest Management Act 2001 and the Transplantation and Anatomy Act 1979. These amendments are minor and technical in nature but will improve the operation of health portfolio legislation. I commend the member for Townsville for his thoughtful contribution on those provisions.

Before I turn to the amendments to the Hospital and Health Boards Act, the member for Beaudesert made some statements about Gold Coast Hospital and Health Service employees attending markets to examine food labels. Those officers of the Department of Health and hospital and health services who work in public health have a difficult job to do. They have to balance public safety with ensuring regulation is not overly burdensome, particularly to business, but we all know the exposure that individuals have to food risks in the community. To me it sounded like officers working in the Gold Coast Hospital and Health Service were just doing their job and exercising their functions under the Food Act. I would say to the member for Beaudesert that if he considers the issue warrants further consideration, I would ask him to provide me with more details and I will communicate that to the Gold Coast Hospital and Health Service.

I would like to address some of the issues raised in relation to the proposed amendments to the Health Ombudsman Act 2013 and the Hospital and Health Boards Act 2011. I feel it is regrettable that I need to do this, but because of the contributions—many of them I think completely and utterly inaccurate and frankly misleading—made in the debate by the Liberal National Party I feel that I have to respond. The member for Caloundra has advised the House that the opposition will oppose amendments to these pieces of legislation. Can I say at the outset it is ironic that members opposite oppose the amendments to the Health Ombudsman Act, because those amendments mirror the existing temporary appointment power already included in the Health Ombudsman Act. I ask rhetorically: who put those existing temporary appointment powers into the act? I wonder who it was. Of course it was the man who sits two seats up from the shadow minister for health. It was, of course, the member for Southern Downs when he introduced the Health Ombudsman Bill 2013. He was supported in the House by the members for Caloundra, Buderim and Mudgeeraba.

Section 119 of the Health Ombudsman Act already provides that the minister may make temporary appointments to professional panels of assessors—a power that they were happy to give to their minister for health, a rational and sensible temporary appointment power, but now when they are in opposition and want to play politics of course it is a power that should not exist. What the member for Southern Downs forgot to do when he introduced the 2013 bill was to include an equivalent temporary appointment power relating to the public panel of assessors, and that is why it was necessary that I propose the amendment to insert a new section 118A.

Given the issues raised during committee proceedings and this debate, particularly by the members for Caloundra, Buderim, Moggill and Mudgeeraba, it is worth reiterating the context for these amendments and establishing what they actually do. The Health Ombudsman Act provides for the establishment of a public panel of assessors and 16 professional panels of assessors in such areas as nursing and midwifery. The role of assessors is to assist the Queensland Civil and Administrative Tribunal judicial member hearing serious disciplinary matters relating to registered health practitioners by advising on questions of fact that may arise. These assessors play a significant role in upholding professional standards for health practitioners across Queensland. Currently the Health Ombudsman Act allows the minister to temporarily appoint individuals to the professional panels subject to certain conditions for periods up to six months, but no such provision exists for the public panel. QCAT is required to schedule hearings as soon as practicable after receiving complaints. Any delay to appointments being made to the public panel may result in QCAT having to reschedule hearings, which in turn would result in delays to disciplinary matters being heard. I doubt that any member opposite would think that delay would be appropriate in relation to disciplinary matters for health professionals who may face very serious allegations. That would simply not be an acceptable outcome.

The member for Caloundra spoke of ‘undue interference and influence by the health minister’. The member for Caloundra must not have read the amendments correctly nor the current Health Ombudsman Act. This amendment and the current Health Ombudsman Act already protect against interference and influence. The amendments to the Health Ombudsman Act allow the minister to make temporary appointments to public panels, but only on the advice of the principal registrar of QCAT. As the minister, I cannot make a temporary appointment unless the Principal Registrar comes to me and says ‘We need more assessors’, either because no public assessors will be available for a disciplinary proceeding, or an assessor of a particular gender is required but not available for a disciplinary proceeding.

Section 126 of the Health Ombudsman Act makes it clear that it is the principal registrar of QCAT, not the Minister for Health, who decides which assessor sits on particular disciplinary proceedings. Section 132 of the Health Ombudsman Act ensures assessors must disclose any conflict of interest. Where such a conflict is identified, subsection 132(2)(b) protects both parties, stating that the assessor must ‘not take part in the proceeding or exercise powers for it, unless all parties to the proceeding and the president agree otherwise’. The amendments I will move during consideration in detail will further enhance the transparency of temporary appointments to both the public and professional panels by requiring these appointments to be published in the gazette.

I turn now to the amendments to the Hospital and Health Boards Act 2011. The member for Caloundra has made a number of claims to the effect that the Labor government did not support local hospital boards, that somehow it was not in our DNA. What complete and utter nonsense and a complete and utter misrepresentation of history. Those members opposite should be embarrassed by making claims that are so completely contrary to history. The 1923 Hospitals Act, passed under the Theodore Labor government, instituted independent hospital boards and districts. The 1936 Hospitals Act, passed under the Labor government of William Forgan-Smith, reaffirmed the independence of hospital boards. That act lasted for over 50 years. The system of independent local authorities continued under the Goss government—the board structure converted to regional health authorities in 1991—independent legal entities, with members appointed by the Governor in Council and given specific power to hold property, to enter into contracts and to receive gifts.

This federated structure, created and refined by Labor, came to an end under the Borbidge National-Liberal coalition government. In 1996 the Health Legislation Amendment Act (No. 2) was enacted, ending the existing regional structure and turning chief executives into mere managers who were subject to the control and direction of the director-general of the Department of Health. The member for Southern Downs voted in support of that legislation.

Labor has always supported independent hospital boards. The then shadow health minister, Wendy Edmond MP, said in debate on the bill—

Never before have we seen such an enormous grab for centralised power. Never before have the people of Queensland been so dominated by Charlotte Street, Brisbane. Never before have the people of rural, regional and remote Queensland—

those people the members opposite purport to support as part of their political organisation—

been so comprehensively dudded by a Government.

It was those opposite who sought to wreck the federated structure. Labor brought back hospital boards. The legislation—the Hospital and Health Boards Act 2011—was introduced and passed by the Labor government in which I served.

I will not be lectured to by the member for Caloundra or the member for Mudgeeraba on the importance of local control, on the importance of a strong board system. The only Queensland governments that have ever done anything to implement genuine local control and governance of health services have been Labor governments. I am happy to quote the member for Caloundra in the debate on the Hospital and Health Boards Bill in 2011. He said in the parliament on 12 October 2011—

As I have said, what the bill does is put in place what are called local hospital health networks or, as the LNP refers to them, local hospital boards. The principle behind the bill is the devolution of power—

I say again: a bill introduced into the parliament by the then Labor government—

from the central state authority based in Brisbane to the networks so that they have a say in the allocation of funds and the delivery of services in their communities. Their involvement in their community includes a governing council that oversees each network on which sits locally, suitably qualified individuals to provide that local knowledge allowing for greater flexibility in the delivery of services and also providing local accountability.

That was Labor's bill and Labor's plan. Hospital and health boards exist today because of Labor. We would not be having a debate about these amendments today without Labor creating hospital and health service boards in the first place.

The Hospital and Health Boards Act requires hospital and health boards to consist of a minimum of five board members including the chair. The act requires that at least one board member must be a clinician. Last year I approved updates to the guidelines for recruitment, selection and nomination of persons to health statutory agencies, making the appointment process more robust. The revised guidelines mandate standards for advertising local vacancies on hospital and health boards, reflecting the Palaszczuk government's expectation that hospital and health board recruitment activities must be conducted in an open and transparent manner and contribute towards the government's target that 50 per cent of appointments to government bodies be women. However, without a power to enable temporary appointments of board members, there is a risk that boards may not be properly constituted at all times, given this permanent appointment process can take several months. Enabling temporary appointments to the board will ensure the board has the appropriate number of members for a quorum and the appropriate skills mix to continue to conduct its business. It will ensure that a robust permanent appointment process can be undertaken while maintaining business continuity for the board.

The amendments will allow the minister to temporarily appoint a new member to a hospital and health board. The minister can do so only if the board does not have at least five members, there is no clinician member or the board does not have the skills, knowledge and experience to perform its functions. That is very clearly articulated in the bill. Temporary appointments will be for an initial period of up to six months with a possible extension of a further six months, ensuring a maximum temporary

appointment period of 12 months. Temporary board members will still be required to have the necessary skills, knowledge and experience needed to be recommended for appointment under the usual appointment processes under the act. The additional requirement to notify the temporary appointments in the gazette—I will move amendments in consideration in detail—will ensure the transparency of these appointments.

The member for Caloundra is intent on painting the amendments as part of some grand conspiracy to centralise power in George and Charlotte streets. The member for Mudgeeraba followed up with claims that I am making a sneaky power grab and will wield unfettered and unscrutinised power to hire and fire hospital and health board members. I can assure the members for Caloundra and Mudgeeraba that this is not the Newman government. There is no sneaky power grab, no unfettered and unscrutinised power-hungry health minister and there will be no appointment of anyone such as the former member for Chatsworth, Michael Caltabiano. Mr Deputy Speaker, do you remember the day Campbell Newman was interviewed on the radio? 'We have been processed to death,' he said when asked about the appointment of Michael Caltabiano. How did that work out for the taxpayer of Queensland? Was it $500,000 or $600,000 burnt—completely wasted? This was the party of fiscal rectitude in government, the party that was against waste. It wasted half a million dollars on one of its hand-picked LNP mates.

We know that their government was a government by and for LNP mates. That is how they ran Queensland. Of course, there was no process around the appointment of Michael Caltabiano and a corrupted process within government. Let us face it, the then premier did not believe in process, which we saw in his conduct in this parliament and the way he treated this parliament and parliamentary democracy in Queensland. Those opposite are silent now. They were not rushing to send him to Canberra. I thought they might send him to Canberra just to get him out of Queensland, but he is still there. That is their legacy in Queensland. We will continue to ensure there is a transparent selection process.

Ms Bates interjected.

Mr DICK: I know that the member for Mudgeeraba does not like it. I know that the member for Mudgeeraba served in the cabinet until even Campbell Newman thought she should not serve in the cabinet. It is very difficult for them to understand the sorts of corrupted processes they oversaw when they were in government.

The member for Mudgeeraba was one of the spear carriers for Campbell Newman—one of his strongest supporters. The member for Mudgeeraba claims that this bill is an attempt to 'give the Minister for Health unmitigated powers to sack and appoint members of our local hospital and health boards'. She went on—

In fact, the minister can feasibly sack—

this is what she said in the parliament—

every hospital and health board and appoint any new members based on politics or personal leanings, whenever he chooses.

That is what she said in this House on 25 February this year. This is complete nonsense. What is worse, the member for Mudgeeraba was told as much during a briefing of the committee. The department explained to the committee during its inquiry—

… the provisions you are reading do not give—

the minister—

power to dismiss a board member ...

Ms Bates interjected.

Mr DICK: That is what she was told by independent public servants, and she has been calling out nonstop. She has been calling out nonstop during the debate. I listened to her in silence, but of course when she hears the truth she cannot but interject. She must talk nonstop. She was briefed in the committee by independent public servants that the provisions do not give the minister power to dismiss a board member. Rather, they give him the power to add to a board to ensure it is capable of performing its governance role. She was briefed in a committee and of course misrepresented that in the chamber when she spoke in the second reading debate. I can only conclude that the member for Mudgeeraba failed to understand the explanation given, was not listening, was not interested or is seeking to mislead the House about the effects of the amendments.

For the benefit of the member for Mudgeeraba and the member for Caloundra, let me put these changes into perspective. I know it is difficult for members opposite to understand the law of Queensland, but let me put it into perspective. These are minor changes recommended by the

department. I said that in my second reading speech—recommended by the department. They ensure hospital and health boards can perform their important functions in Queensland's public health system. They do not change the very limited circumstances in which a sitting board member can in fact be suspended or removed from office. The act is very clear about that. The minister is able to suspend a board member under section 27A of the current act, but the minister cannot remove a board member. That can only be done by Governor in Council. Section 28 of the act provides that the Executive Council may remove a member from office if they are insolvent, disqualified from managing a corporation or have been convicted of an offence or the minister recommends their removal. The minister can only recommend removal if satisfied the member has been guilty of misconduct, is incapable of performing their duties, has neglected their duties or performed incompetently or has been absent without permission from three consecutive meetings. There is no unfettered power for ministers to remove board members, and so that should be because they are responsible for running and delivering health services in Queensland.

During the debate the member for Mudgeeraba also selectively quoted from the AMAQ's submission to the committee inquiry in relation to the Health Ombudsman Act amendments. What the member for Mudgeeraba failed to point out was that the AMAQ strongly supports the amendments to enable temporary appointments to hospital and health boards. The AMAQ submission states—

> We are strongly in favour of the amendment to ensure that HHSs are not compromised by the departure of board members. We are pleased that the Queensland Government has recognised the importance of clinicians in the amendment.

Those members opposite may not wish to support the AMA Queensland, but we are pleased to do so as a government.

As I have already explained, the temporary appointment powers were recommended to me by the department. They are powers to appoint new members, not powers to remove existing members. They are sensible administrative amendments identified by the department to avoid problems it has experienced in the past and may well experience again in the future. I am advised that the Commonwealth Corporations Act provides a provision for the appointment of temporary directors. It provides that temporary appointments to such large public companies as Qantas, BHP, Telstra or any of the four big banks must then be confirmed at the following annual general meeting which, at most, would be 12 months away. Temporary appointments can be made by large corporations in Australia, but the opposition—the Liberal National Party—does not believe it is appropriate for temporary appointments to be made to Queensland hospital and health boards in what otherwise would be regarded as standard corporate practice. This is an important provision and the operation of our hospital and health services is important. That is why when there are less than five members or an individual with expert skills is missing from the board it is vital that a temporary replacement can be quickly appointed. This is especially important when the board is missing a clinician whose appointment is required under the act and the board would otherwise be unable to act without that temporary appointment. We all agree that it is vital that our hospital and health boards are able to function effectively with full membership, and these amendments will help achieve that goal.

In summary, this bill will change the way we look at fast food. As informed consumers we will be able to make better choices for ourselves and our families which assist the fight against obesity and associated health burden. I want to thank the committee and committee staff members for their detailed consideration of the bill. I also want to thank all dedicated officers within the Department of Health and the Office of the Queensland Parliamentary Counsel involved in developing the bill. I acknowledge the work of the officers within the Prevention Division, in particular Roger Meany, Liz Good, Tenille Fort and Leanne Fulmer; the Office of Health Statutory Agencies, in particular Mark Strong, Steven Ralph, Charmaine Ward and Deb Pedley; and the legislative policy unit, in particular David Harmer, Jeremy Kirby, Kirsten Law and Anita Eenink. I commend the bill to the House.