




Speech By
Hon. Cameron Dick

MEMBER FOR WOODRIDGE

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PUBLIC HEALTH (WATER RISK MANAGEMENT) AMENDMENT BILL

Second Reading

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

That the bill be now read a second time.

I am pleased to speak in support of this bill, which forms part of a detailed and comprehensive health reform program that will improve the lives of all Queenslanders. Two weeks ago, during our last sitting, this parliament passed the Palaszczuk government's historic nurse-to-patient ratio laws. Few in the chamber will forget the overwhelming and enthusiastic support we received from nurses and midwives in the gallery as the legislation was debated.

Last week I had the pleasure of launching *My health, Queensland's future: advancing health 2026*, the Palaszczuk government's vision and 10-year agenda for Queensland's health system. Today, consistent with this government's commitment to improving the health of Queenslanders and our track record of delivering meaningful health sector reform, I have the pleasure of participating in this debate of yet another significant health bill.

I thank the Transportation and Utilities Committee for its consideration of the bill and for its report tabled on 12 May 2016 recommending that the bill be passed. I table the government's response to the committee report.

Tabled paper: Transportation and Utilities Committee: Report No. 15—Public Health (Water Risk Management) Amendment Bill 2016, government response [\[773\]](#).

The committee recommended that I clarify in my second reading speech the meaning of the term 'person in charge' and that I also investigate options for including a precise definition of 'person in charge' in whatever legislation is considered most appropriate. I am happy to provide this clarification, and will do so shortly.

Firstly, I wish to thank those organisations that made submissions to inform the committee's deliberations, in particular the Master Plumbers' Association and Services Trades Queensland. The plumbing trades are at the forefront of the management and control of legionella, and it is a topic I know they care very deeply about. I appreciate the insight and professional expertise they have contributed to the committee's consideration of the bill.

As I informed the House when introducing this bill, in 2013 Queensland's Chief Health Officer, Dr Jeannette Young, investigated two cases of hospital acquired legionnaires disease at a metropolitan private hospital. Following her investigation, Dr Young published a report that included recommendations to improve the management and control of legionella risks in hospitals and residential aged-care facilities.

Dr Young's recommendations included interim arrangements requiring Queensland hospitals and public residential aged-care facilities to develop and implement water quality risk management plans to address the risks associated with legionella bacteria. Under the interim arrangements, which have been in place since mid-2014, these facilities have also been routinely testing their water supplies for the presence of legionella bacteria in accordance with their water risk management plans. In her report, Dr Young also recommended that in the medium-term the legislative framework for legionella management and control be strengthened through the inclusion of requirements in the Public Health Act 2005.

That is why, through this bill, the Palaszczuk Labor government is implementing a more robust and comprehensive legislative framework to improve the management and control of health risks associated with the supply and use of water in hospitals and residential aged-care facilities. The bill maintains a current requirement for facilities to have in place water risk management plans. However, it broadens the scope of matters that facilities must consider under their plans when assessing the health risks relevant to the supply and use of water in their facilities.

These matters include hazards relevant to water that could reasonably be expected to cause illness or injury such as legionella bacteria, other microorganisms, chemical substances or physical properties such as temperature. They also include hazardous events such as interruptions in the supply of water from events such as water main breaks, natural disasters and drinking water service provider maintenance activities, or changes in drinking water quality.

Water risk management plans are recognised internationally as the most effective method of managing health risks associated with water related hazards. They are reflected in the World Health Organization's water safety framework approach for ensuring drinking water safety as outlined in its *Guidelines for drinking-water quality*. They are also intrinsic to the risk based approach adopted in the national guidelines for legionella control in health and aged-care facilities that were approved by the Australian Health Protection Principal Committee in late 2015.

Water risk management plans have been shown to deliver tangible benefits when addressing the health risks associated with legionella bacteria. For example, a study published in 2010 in the *American Journal of Infection Control* showed that legionella bacteria were less likely to be detected in cooling towers where risk management plans had been implemented. It has also been anecdotally reported that early adopters of the United States' guidelines for legionella detection and control saw cases of hospital acquired disease associated with legionella bacteria decline from 33 per cent to three per cent.

The comprehensive risk assessment and risk management approach to hazards used in the development of water risk management plans is similar to those which have been in place for many decades in the food and manufacturing industries to ensure the production of safe, high-quality products. We know that the risks associated with water related hazards are likely to vary between different types of health and residential aged-care facilities, and even between different locations within a facility. The use of water risk management plans provides facilities with flexibility to tailor appropriate management activities and control measures to address those hazards relevant to the facility, having regard to the level of risk to their patients or residents.

To ensure that prescribed facilities' water risk management plans are robustly designed and considered, and developed to a consistent and appropriate standard, the bill outlines the information a plan must contain. The requirements relating to the content of plans have been informed by world's best practice and also align closely with the new national guidelines for legionella control in health and aged-care facilities.

To support compliance, the bill places a number of obligations regarding water risk management plans on the person responsible for a prescribed facility. The responsible person for a prescribed facility is required to ensure that the facility has a compliant water risk management plan and that the facility operates in accordance with the plan. The responsible person must also take all reasonable steps to ensure that each person who has an obligation to comply with the plan while the facility is operating does so. Finally, the bill also provides that the responsible person must provide the chief executive of the Department of Health with a copy of the facility's plan on request and amend a plan if directed to do so by the chief executive. For public sector hospitals and state residential aged-care facilities, the responsible person is the relevant hospital and health service chief executive for the hospital or aged-care facility. For private health facilities licensed under the Private Health Facilities Act, the responsible person is the licensee for the facility.

Importantly, the bill framework also outlines requirements relating to the notification and reporting of water test results. The bill requires the person in charge of a facility to notify the Department of Health within one business day after being notified of a test result confirming the presence of legionella bacteria in water used by the facility. This will ensure that the Department of Health is aware of the legionella

detection and will also enable the department to determine whether the facility is responding appropriately in accordance with its water risk management plan. Repeated positive detections will also enable the department to identify those facilities that may be facing challenges in managing their water supplies. This will enable the department to provide them with expert advice and support.

The bill also requires the person in charge of a prescribed facility to provide periodic reports to the Department of Health about the water tests undertaken for legionella in accordance with the facility's water risk management plan, including test results. It is intended that these reports will be provided on a quarterly basis. As the committee noted in its report, the term 'person in charge of a prescribed facility' is not defined in the bill. This approach was taken because there is not a single common position for each of the different facility types that can be used to precisely define the term.

It is important to note that the term 'person in charge' is currently used in a number of different contexts throughout the Public Health Act without being defined. These include a person in charge of a hospital, a person in charge of a health service facility, a person in charge of a healthcare facility, a person in charge of a public sector health service and a person in charge of a place. In legislation, terms that are not defined take their natural meaning. The *Macquarie Concise Dictionary* defines the term 'in charge of' to mean 'having the care or supervision of' or 'under the care or supervision of'. Consistent with this, it was intended that the person in charge of a prescribed facility would be taken to mean the person who has supervisory responsibility for the day-to-day operation and control of the facility.

I have noted the committee's view that the terms 'responsible person' and 'person in charge' may be interchangeable and its concerns regarding this given that the bill applies penalties for noncompliance to both these categories of person. To address these concerns, I intend to use the regulation-making power in new section 61D(g) of the bill to require facilities to identify, by position, the person in charge of the facility in their water risk management plans. This will remove any doubt as to the identity of the person in charge of a specific prescribed facility.

Hospitals and residential aged-care facilities care for some of the most vulnerable people in our community. Therefore, it is vitally important that Queenslanders can be confident that these facilities are regularly testing their water supplies for legionella bacteria and responding appropriately to any detections. Therefore, the bill enables the Department of Health to publish data provided by prescribed facilities in periodic reports, to provide greater public transparency regarding the water-testing activities being undertaken by these facilities. It is intended that the department will publish the data quarterly, although circumstances may arise from time to time that necessitate more frequent reporting.

The bill provides for a range of offences relating to noncompliance with bill provisions by a responsible person or a person in charge. Currently, these range from \$23,560 to up to \$117,800 for the two most serious offences. These amounts will increase from 1 July 2016 in line with the government's recently approved penalty unit increase. The penalties reflect the significant responsibility hospitals and residential aged-care facilities have for providing a safe environment for their patients and residents.

The bill will initially apply to facilities currently subject to the interim arrangements—that is, public hospitals, public residential aged-care facilities and private health facilities licensed under the Private Health Facilities Act 1999. As I mentioned earlier, under the interim arrangements these facilities have already implemented water risk management plans and legionella testing regimes. The magnitude of additional costs incurred by individual facilities in complying with the broadened scope of matters that must be considered under their water risk management plans will depend on a number of variables. These include the size of the facility and the complexity of its water infrastructure, the scope of matters already considered under its existing plan, the quality of the existing plan and the extent of the facility's reliance on external contractors.

It is intended that the legislation will be implemented in the private residential aged-care sector at a later date. To enable this, the bill provides for private sector residential aged-care facilities to be prescribed by regulation. The Palaszczuk Labor government is mindful that the private residential aged-care sector comprises a variety of different providers and facilities, ranging from large for-profit providers with multiple facilities to small not-for-profit community supported facilities. Given this, implementation of the legislation in this sector will be undertaken through a phased process in order to minimise the impact on smaller providers. The Department of Health will consult closely with stakeholders regarding the potential costs to that sector as part of the implementation process.

As I stated in my explanatory speech, the proposed amendments contained in this bill will deliver the most stringent regulatory framework in Australia with regard to water risk management in hospitals and residential aged-care facilities. I commend the bill to the House.