




Speech By  
**Leanne Linard**

**MEMBER FOR NUDGE**

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### **HEALTH LEGISLATION AMENDMENT BILL**

 **Ms LINARD** (Nudgee—ALP) (5.35 pm): I rise to speak in support of the Health Legislation Amendment Bill 2015. The bill amends six Health portfolio acts to support policy initiatives of the government, specifically: the Food Act to require fast-food chains, snack food and drinks chains, bakery chains, cafe chains and supermarkets to display nutritional information, and to authorise disclosure of confidential information for limited public health and safety reasons; the Health Ombudsman Act and the Hospital and Health Boards Act to enable the minister to temporarily appoint persons to the public panel of assessors and hospital and health boards respectively; the Pest Management Act to enable the chief executive to delegate the chief executive's powers to appropriately qualified employees of the hospital and health services; the Public Health Act to streamline the process for enabling registered midwives to access the Queensland Pap Smear Register; and the Transplantation and Anatomy Act to make clear that the definition of blood products under section 42AB does not include cord blood—that is, blood obtained from the placenta via the umbilical cord for the collection of stem cells.

The committee was able to reach agreement on the proposed provisions relating to the Food Act, the Pest Management Act, the Public Health Act and the Transplantation and Anatomy Act, but could not reach agreement on the provisions relating to the Health Ombudsman Act and the Hospital and Health Boards Act.

Unhealthy eating and obesity are among the leading preventable causes of death and disease in Queensland. Queensland has the highest rate of obesity in Australia, with research showing that 65 per cent of Queenslanders are overweight or obese. In the fifth report of the Chief Health Officer, Dr Jeanette Young called obesity arguably the most confronting public health issue of this century; a global pandemic of a different kind; the by-product of prosperous times, technological advances, convenience and poor lifestyle choices. On current trends, about three million Queenslanders will be overweight or obese by 2020. Queensland's obesity rates are now approaching those of the US.

During the public hearing, Dr Young, the Chief Health Officer, advised the committee that unhealthy eating and obesity is having a particularly profound effect on children and young people, as almost half of the daily energy intake of 16- to 17-year-olds is from fast food. During the election, the government made a commitment to introducing legislation requiring fast-food chains to display the kilojoule content of their food and drinks, and to undertake a community and industry awareness campaign to help Queenslanders use the kilojoule menu-labelling information to make healthier choices.

The Australian Nutrition Foundation, in their submission to the committee, commented—

While we know food choices are ultimately a personal responsibility, because of the social determinants of health, not all Queenslanders are equally empowered in their understanding of better food choices. If Governments put in place legislation, such as the proposed amendment to the Health Legislation Bill which supports a healthier food supply and makes it easier for individuals to make the better food choices then this can go a long way to supporting better health outcomes for the community and diminishing the health burden for Queensland.

The Australian Medical Association of Queensland provided strong support for the amendments, commending and endorsing the comments made by the Minister for Health in his introductory speech in which he said—

Population-wide weight gain causes significant health problems for individual Queenslanders, their families, their employers and the community. Around 2.5 million Queensland adults and children are overweight or obese. In 2008, the estimated financial impact of obesity on the Queensland economy was \$11.6 billion in health system costs, lost productivity and lost wellbeing.

We simply cannot afford not to find new and additional ways to encourage and assist consumers to make better informed and healthier choices. The rationale for the amendments to the Food Act as outlined by the Minister for Health go straight to this point. The food menu-labelling scheme will help Queenslanders make healthier fast-food choices by providing easily understood nutritional information at the point of sale where purchasing decisions are made. The menu-labelling scheme will mandate that standard food outlets of prescribed food businesses must display on their menus the average energy content, in kilojoules, for each standard food item and a statement that the adult daily energy intake is 8,700 kilojoules.

The mandatory display requirements will apply only to food businesses that are required to be licensed under the Food Act and that have more than 20 outlets in Queensland or 50 outlets Australia-wide. This will include fast-food chains, snack food and drinks chains, bakery chains, cafe chains and supermarkets. Exemptions are provided for non-profit organisations, health service facilities, cinemas, convenience stores, service stations, dine-in-only food businesses, catering businesses and mobile food businesses. Standard food outlets that are not captured by the scheme but that voluntarily display nutritional information will be required to comply with the requirements in the act.

In response to questions asked during the committee hearing regarding how food outlets will provide a standardised and valid measure of average energy content, the Chief Health Officer advised that there is an online nutrition panel calculator developed by Food Standards Australia, in addition to nutritional analysis software, and food composition tables and databases that are available. Outlets can also use laboratory analysis to identify and provide a standardised and valid measure of average energy content that consumers can have confidence in. The display of such information will not stop people from eating fast food. This is not the intention of the bill. But it will support the ability of consumers to make more informed food choices. The Department of Health advised the committee that there are approximately six food businesses in Queensland that will be caught by the legislation and that they will work with those businesses during a transitional period of 12 months to ensure compliance with the menu-labelling requirements.

The bill also contains amendments to allow the chief executive to authorise the disclosure of confidential information where there are reasonable grounds to believe disclosure is necessary to prevent or reduce the possibility of a serious danger to public health or to mitigate the adverse consequences of a serious danger to public health. Reference was made by Queensland Health to a current inability to effectively warn the public to not consume certain brands of foods during an outbreak of salmonella or the like. The amendment before the House will overcome this limitation and mean that the department is able to warn consumers effectively, providing specific advice about how best to avoid health risks. I know that I would want this information to limit the exposure of my family to such health risks, and I commend the minister on bringing this amendment to serve the public interest. Importantly, the proposed provision includes safeguards to ensure that an appropriate balance is struck between the need to protect and promote health and protecting the rights of businesses and individuals affected.

The bill also makes a minor but important amendment to the Public Health Act 2005 to enable registered midwives who are not also registered nurses to access the Queensland Pap Smear Register. Currently, a registered midwife who is not also a registered nurse cannot access the register without first being designated a health practitioner by the chief executive of the department. This is an unnecessary step.

During the hearing, the Australian College of Midwives advised the committee that, since the introduction of a separate professional register for nurses and midwives, access to the pap smear database has been limited to only those midwives who have a nursing registration in addition to their midwifery. The Pap Smear Register ensures women with an abnormal pap smear result are advised about appropriate medical investigation and interventions. Pap smears are not the highlight of any woman's social calendar, but they are vital and in some cases lifesaving. Importantly, the College of Midwives advised the committee that evidence shows that women are more likely to act on health advice during pregnancy and childbirth, placing midwives in an ideal position to influence women's health and access to such essential screening services.

The bill also makes a clarifying amendment to the Transplantation and Anatomy Act 1979, an act which provides for the removal of human tissues for transplantation, for post-mortem examinations and related purposes. The amendments before the House seek to make clear that the definition of 'blood

products' does not include cord blood. Part 7 of the bill prohibits the buying, advertising to buy and selling of human tissue. Cord blood is captured by the definition of 'tissue' under the act and is therefore subject to trading conditions. Cord blood is a rich source of stem cells used to treat leukaemia and lymphoma, as well as immune and metabolic disorders. So it is important that the relevant provisions of the act are clear.

Amendments made in 2014 were intended to allow the registry to be prescribed as an entity exempt from the trading restrictions both for the purposes of trading in bone marrow and stem cells in cord blood. However, the amendments were not sufficiently clear that cord blood is not a blood product for the purposes of the act. As a consequence, the registry is not clearly eligible for an exemption. The effect of this amendment is that the Australian Bone Marrow Donor Registry—a non-profit organisation that conducts searches for matching cord blood units—is able to be exempted from the act's human tissue trading restrictions, consistent with the original intention, which might otherwise prevent it from trading stem cells contained in cord blood.

As indicated earlier, the committee was able to reach agreement on the proposed provisions relating to the Food Act 2006, the Pest Management Act 2001, the Public Health Act 2005 and the Transplantation and Anatomy Act 1979, some of which I have outlined in my preceding comments. The committee disagreed, however, on provisions relating to the Health Ombudsman Act 2013 and the Hospital and Health Boards Act 2011.

The bill amends the Health Ombudsman Act 2013 to allow the minister to temporarily appoint persons for a period of up to six months to the public panel of assessors where the minister reasonably believes it is necessary to urgently appoint an individual. Such urgency arises where the principal registrar of the Queensland Civil and Administrative Tribunal has advised the minister that none of the existing public panel members will be available for a hearing, or a panel member of a particular gender is required and either none of the existing panel members are of that gender or none of the panel members of that gender will be available to hear the matter.

The Health Ombudsman Act provides for the appointment of a public panel of assessors and 16 professional panels of assessors to provide expert advice to a judicial member of QCAT during disciplinary proceedings relating to registered health professionals. The act currently allows for the temporary appointment of an assessor to a professional panel but does not currently contain provision for the temporary appointment of an assessor to the public panel. The act prescribes the process for recommendations of appointment to both the public and professional panels which includes the calling of nominations for appropriately qualified nominees and appointment by the Governor in Council, for up to five years, following a recommendation from the minister.

This requirement to advertise and invite nominations will not apply to temporary appointments as proposed under the bill as the minister is making the appointment in emergent circumstances, where the minister 'reasonably believes it is necessary to urgently appoint' an individual, on the advice of QCAT, where the panel is unable to effectively operate for the reasons cited earlier. The temporary appointments can be for up to six months, mirroring what is already in place for professional panels of assessors.

The bill will also enable the minister to temporarily appoint an individual to a hospital and health board for a period of up to six months if the minister reasonably believes that it is necessary to urgently appoint a board member because the board does not have the number of members required by the act; the minister considers the members of the board do not have the requisite skills, knowledge or experience required to perform their functions effectively; or the board does not have a clinician member as required by the act.

The proposed amendment is designed to deal with a situation where there are unforeseen or unexpected vacancies on a board—for example, current board members unexpectedly resign or take unplanned leave. During the committee's hearing, Dr Jeannette Young, Chief Health Officer, advised the committee that the proposed amendment is designed to give the minister discretion to appoint people for a temporary period of time in order to ensure that the board is properly comprised and can exercise its functions. It is not designed as a substitute for the existing open and transparent appointment process already administered under the act.

Under the Hospital and Health Boards Act 2011 each hospital and health service is controlled by a board. Boards must consist of a minimum of five members, one of whom must be a clinician. Members are appointed to the board by the Governor in Council for not more than four years, following a recommendation from the minister. This process is not proposed to be changed.

The amendment before the House applies where there is a vacancy that cannot be met by the existing appointment processes for the reasons outlined earlier. The bill contemplates an appointment being made for a maximum of six months, with the discretion for the minister to extend that person for

a further six months, providing for a maximum temporary appointment of 12 months. In response to questions from opposition members during the hearing as to the motive behind the proposed amendments, the Department of Health responded—

... this particular proposal was an initiative of the department. It recommended to the minister that there was a need for this capacity to make temporary appointments following its experience during the caretaker period at the last election where there was no mechanism to fill vacancies in the period during the caretaker period and immediately following it as the new parliament took form. This is an initiative which the department has recommended to the minister principally for reasons of ensuring that boards can operate and perform their governance roles at all times.

The Australian Medical Association Queensland commented—

The vitality of the 16 Hospital and Health Services is heavily reliant on the strength and skills mix of their individual boards. 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.

The Royal Australasian College of Surgeons similarly supported the amendments.

This bill delivers on a key election commitment aimed at improving the health of Queenslanders. New menu-labelling requirements will help Queenslanders make healthier fast-food choices, benefiting individuals, families and the community. The bill also contains important measures to support health policy initiatives of the Palaszczuk government.

In closing, I would like to thank my fellow committee members for their constructive approach to considering the bills. I would like to thank those who have taken the time to make valuable written submissions and/or appear before the committee to provide evidence at public hearings. I thank the Department of Health, which briefed the committee, and the committee secretariat for their assistance and support. Finally, I thank the Minister for Health and Minister for Ambulance Services for bringing this bill into the House in the interests of all Queenslanders. I commend the bill to the House.