Speech By

Ros Bates

MEMBER FOR MUDGEERABA

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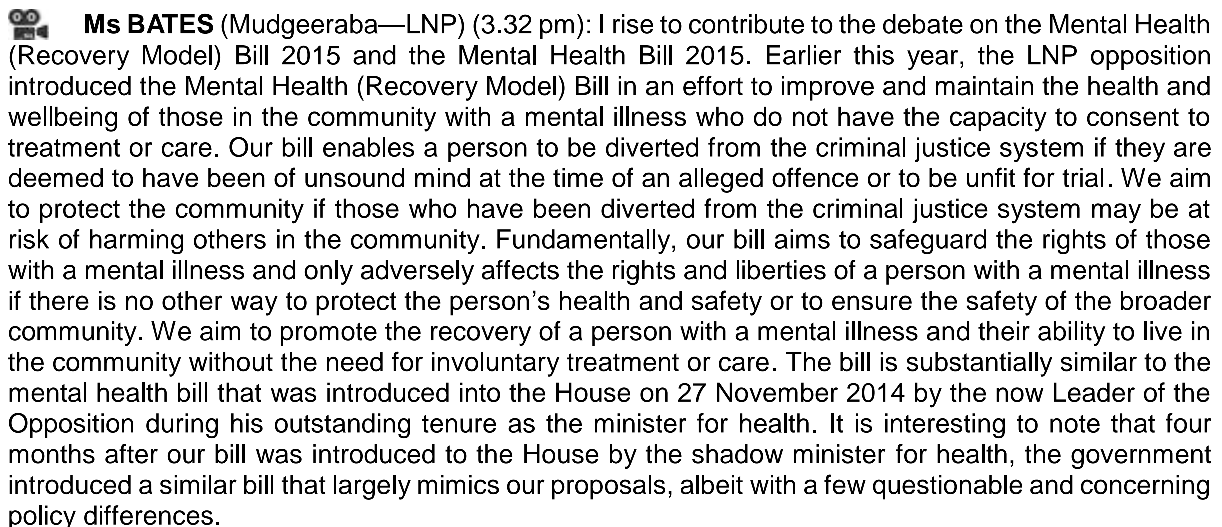
MENTAL HEALTH BILL; MENTAL HEALTH (RECOVERY MODEL) BILL



Ms BATES (Mudgeeraba—LNP) (3.32 pm): I rise to contribute to the debate on the Mental Health (Recovery Model) Bill 2015 and the Mental Health Bill 2015. Earlier this year, the LNP opposition introduced the Mental Health (Recovery Model) Bill in an effort to improve and maintain the health and wellbeing of those in the community with a mental illness who do not have the capacity to consent to treatment or care. Our bill enables a person to be diverted from the criminal justice system if they are deemed to have been of unsound mind at the time of an alleged offence or to be unfit for trial. We aim to protect the community if those who have been diverted from the criminal justice system may be at risk of harming others in the community. Fundamentally, our bill aims to safeguard the rights of those with a mental illness and only adversely affects the rights and liberties of a person with a mental illness if there is no other way to protect the person's health and safety or to ensure the safety of the broader community. We aim to promote the recovery of a person with a mental illness and their ability to live in the community without the need for involuntary treatment or care. The bill is substantially similar to the mental health bill that was introduced into the House on 27 November 2014 by the now Leader of the Opposition during his outstanding tenure as the minister for health. It is interesting to note that four months after our bill was introduced to the House by the shadow minister for health, the government introduced a similar bill that largely mimics our proposals, albeit with a few questionable and concerning policy differences.

From the outset, I have a number of concerns about some of the proposals made in the government's bill and the way it may make life harder and potentially less safe for our hardworking front-line doctors and nurses. During the committee process, as the deputy chair of the Health and Ambulance Services Committee I raised those concerns with my fellow committee members and with relevant stakeholders during our public hearings. In particular, I am concerned about the way that the government bill clarifies that the offence of using mechanical restraints, seclusions or physical restraints applies to any patient, including patients being treated under an advance health directive. I am also worried about the way that the government's bill restricts the use of medications such as sedation on patients in mental health services. I believe this is yet another example of a government so far removed from the practical realities of policy implementation on the front line in health care that it simply does not see how legislation that makes it more difficult to restrain patients could impact the safety of our hospitals and our of health staff.

At the core of our hospital and health system should be an overarching trust in the ability of our health staff in an emergency department, whether they are ambulance officers, police or nursing staff, to use effective judgement and to know when to use appropriate measures to calm a patient, particularly when they are under the influence of drugs or alcohol or are otherwise psychotic. Under the government's proposals, a restraint can be largely used only if the Chief Psychiatrist approves its use. It creates wide-ranging difficulties on the front line when nurses and doctors are unable to uses tools that are at their disposal due to red tape created through legislation. This creates safety risks in

hospitals, which already need to have their security boosted to protect staff, patients and visitors from patients under the influence of drugs or alcohol who may be acting violently, whether or not they are mental health patients.

Members of this House will know that on a number of occasions I have raised the issue of security provisions in our major hospitals and, in particular, the Gold Coast University Hospital and Robina Hospital where dozens of code black security instances can occur each month. In fact, numbers of codes black can occur even in one day in a mental health unit. Those security incidents can often range from verbal aggression to physical violence, creating situations where our hospital and health staff are put at serious risk and often chemical restraint through medication is one of the only tools at their disposal. Taking away one of the few tools available to our hospital and health staff to secure the safety of staff and patients when faced with a patient under the influence of either drugs or alcohol or a psychotic patient is one of the most concerning components of the government's bill.

Yesterday I raised some very serious concerns about the mental health unit at Robina. It is a very serious workplace health and safety matter. For the benefit of the minister, I table the observations and allegations that have been raised with me.

Tabled paper: Document, undated, titled 'Robina Fire' [193].

Whilst the minister does not believe that there is a conspiracy surrounding this issue, I believe that he personally has not been furnished with the full facts of the matter. This issue is too alarming to play partisan politics with. I do not believe that the minister has been told the truth about the lead-up to this incident, what actually occurred in the incident and what has been reported to the minister since. A very serious allegation about the hospital's fire board being overridden by third-party contractors and not being monitored led to the fire, and staff were forced to respond accordingly, including manually contacting the Queensland Fire and Emergency Services. As the minister would have borne ultimate responsibility for what could have been fatal consequences in the mental health unit, I am sure that he would want to be armed with the all the facts to ensure that the safety of his staff is never again compromised. Staff have told me that they are concerned about many different issues arising from this situation, including patient searches, security numbers, threats to life, personal injuries and ownership of risk. Unfortunately, this is not the only disturbing situation I have been told about related to mental health in this hospital.

Recently I have been informed that a number of weeks ago a mental health patient absconded from the hospital and entered the grounds of a nearby school and was removed by police. The Minister for Education is not in the House at the moment, but she is well aware that your government put a fence around Robina State High School, at a cost of half a million dollars, to protect the students and staff. I wanted to raise that issue with you, Minister.

Madam DEPUTY SPEAKER (Ms Linard): Member, I ask that when you are referring to other members in the House you use their correct title.

Ms BATES: I am sorry: the Minister for Education. Unfortunately, I am continually told that seclusion is frowned upon and, as a result, a lot of our nurses remain unsafe. Under this bill, restraint is an even less accessible tool for hospital staff. This information has only been made public by brave whistleblowers who fear for their safety if something is not done about security conditions and protocols at this hospital, including reviewing the methods of restraints available. The government bill also presents potential safety risks to the wider community by removing the ability of the Chief Psychiatrist to require a forensic patient to wear a GPS tracking device. Under the government's bill, this authority is now limited to the Mental Health Court and the Mental Health Review Tribunal, taking an administrative power away from the health professional and giving the power to a court. The opposition's bill, in contrast, retains the ability of the Chief Psychiatrist to issue a GPS monitoring device to a forensic patient.

Clause 217 of the opposition's bill sets out the circumstances in which the Chief Psychiatrist may impose an additional monitoring condition. The purpose of this is to provide an additional level of protection for the patients and others. Our bill contains a requirement for the Mental Health Review Tribunal to review decisions to impose additional monitoring within 21 days of being notified of the decision. The rights of patients are therefore properly safeguarded by our bill.

In many cases, we have major hospitals which are very close to neighbouring public facilities and may be located within high-density areas. Robina Hospital, in my electorate of Mudgeeraba, for instance, is in close proximity to shoppers at Robina Town Centre and commuters at Robina train station. It is also less than 300 metres from students and parents at Robina State High School. As a result, it is crucially important that we maintain the ability of our hospital staff to maintain public safety in areas surrounding hospitals by tracking forensic patients who could pose some safety concern to the broader public when on leave.

I am pleased that the shadow minister for health will be moving amendments to the Mental Health Bill during the consideration in detail stage of the debate which will strengthen the ability of the Chief Psychiatrist to keep the community safe by imposing a monitoring condition, such as a tracking device, on patients receiving treatment in the community. This would only occur if the Chief Psychiatrist considered that there has been a material change in the patient's circumstance, including a deterioration in the patient's mental state or if limited community treatment is being received by the patient for the first time.

Our amendments will recognise the risk presented to the community when a patient absconds from a hospital and does not return as required, particularly when, as I have outlined, significant community infrastructure such as schools, shopping centres, transport hubs and school kids are surrounding our hospitals. We recognise, however, that communication with patients is vitally important, particularly when it comes to mental health.

Our amendments will therefore require the Chief Psychiatrist to give written notice to the patient's treating health service or, if applicable, the Mental Health Review Tribunal, as well as tell the patient about the decision to impose a monitoring condition and explain it to them. Our proposed amendments will also charge the Mental Health Review Tribunal with reviewing the Chief Psychiatrist's decision to impose a monitoring condition within 21 days of being notified that this decision has been made. The tribunal will then have the power to confirm or revoke the monitoring conditions, providing another layer of transparency in this process.

During our consideration of these mental health bills, the Health and Ambulance Services Committee heard from a number of industry stakeholders about the provisions of each bill. I was particularly interested in the evidence presented by Professor Harry McConnell, professor of neuropsychiatry and neurodisability, who raised concerns about the administration of mental health. In particular, Professor McConnell said that there is tremendous confusion between the guardianship and mental health acts. Professor McConnell told the committee that it is important for clinicians using these acts to have clarity and urged the committee to consider in future harmonisation of the mental health and the guardianship acts in recommendations to the House.

The professor also pointed out the importance of both highly skilled clinical teams in hospitals to deal with code black security incidents in mental health situations and the need for an ongoing, dedicated security presence to improve staff and patient safety—an issue I have raised on a number of occasions before the committee. Importantly, Professor McConnell suggested that security personnel at hospitals should receive training in issues such as the de-escalation of security risks, holds and rapid tranquilisation, as all these issues do arise for security guards. The professor described the use of untrained security guards or clinical staff as unacceptable. I echo his concerns surrounding the importance of adequate security procedures at our hospitals and of the need for highly trained security staff.

It was also interesting to note the professor's support for decisions related to the use of GPS monitoring devices being made in a clinical setting with the option for the person to review the clinical decision in the Mental Health Review Tribunal. He noted that GPS tracking can be a very useful tool clinically.

It is no secret that as the committee considered both the government's bill and the opposition's bill we were unable to reach a bipartisan recommendation on a number of issues. In particular, the committee could not reach agreement on whether each bill should be passed. Government members of the committee support the passage of the government's bill. Opposition members of the committee support the passage of the opposition's bill.

We also could not reach agreement on the ability of the Chief Psychiatrist to require a forensic patient to wear GPS monitoring devices. Government members do not support the provisions in the opposition's bill which allow the Chief Psychiatrist to amend a forensic order to impose a monitoring condition which requires a patient to wear an electronic tracking device. Opposition members support the provisions in the opposition's bill which allow the Chief Psychiatrist to amend a forensic order to impose a monitoring condition which requires a patient to wear an electronic tracking device. Opposition members consider the Chief Psychiatrist appropriately qualified to exercise this power.

In closing, when it comes to mental health it is fundamentally important that we balance the rights of patients with the safety and security of hospital and health staff as well as the broader community. There are clear differences between the bills put forward by the government and the opposition surrounding the ability of health staff to keep themselves and the community safe through the use of appropriate constraints or GPS tracking. The opposition knows that situations in hospitals and emergency departments in particular can change rapidly and flexible provisions for our health staff to keep themselves safe when confronted with a violent patient are of paramount importance should an unexpected situation arise.

I congratulate both the former minister for health and the current Minister for Health for finally looking at legislation that has needed to be reviewed. The last time this legislation was reviewed was 15 years ago and there have been so many advances in mental health treatment during that time. Whilst we do not always agree on all parts of the bill, I congratulate both the former minister for health, the Leader of the Opposition, and the current Minister for Health for their work on this bill.