Speech By

Hon. Cameron Dick

MEMBER FOR WOODRIDGE

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PUBLIC HEALTH (INFECTION CONTROL) AMENDMENT BILL

Hon. CR DICK (Woodridge—ALP) (Minister for Health and Minister for Ambulance Services) (7.48 pm), in reply: I thank all members for their contribution to today's debate on this important legislative measure. Healthcare facilities provide a wide range of critical services to Queenslanders. For this reason, it is essential that the regulatory framework that mitigates infection risk is robust and easily enforced.

The amendments in this bill are straightforward. In summary, they facilitate more effective investigation of infection control practices by empowering Queensland Health to: require facilities to provide information about their infection control practices and in extreme cases enter facilities without giving prior notice; create stronger powers for Queensland Health to intervene in remedying noncompliant infection control practices, including by issuing and enforcing improvement and directions notices; make the infection control framework more enforceable by creating a range of penalties for facilities which breach their existing obligations or notices and other directions issued by Queensland Health; and allow a number of standards to be prescribed to provide greater guidance to healthcare facilities about how to meet their infection control obligations.

This bill implements a proportionate response to a clear public health need demonstrated by recent infection control incidents and, in doing so, strikes a reasonable balance. This is a simple but necessary bill. As the House already appreciates, health care is a well-regulated field. This is as it should be. The staff and patients of healthcare facilities deserve to know the healthcare services on which we all rely are being provided in a safe and controlled environment. These existing regulatory frameworks all serve different purposes. Together, they support safe and reliable service delivery. However, as I have explained, there is a small but significant gap in this regulatory cover.

The existing complementary regulatory frameworks can be improved to better manage the infection risks arising from the performance of invasive procedures and other procedures involving the release of blood and other bodily fluids known under the Public Health Act as declared health services. I can assure the House this gap in the regulatory framework does not mean there is a substantial unmanaged threat to public safety arising from the performance of these procedures. This would be immediately evident to Queensland Health, which closely monitors and actively follows up all cases involving the transmission of a bloodborne virus. In addition, a number of complementary regulatory frameworks and processes contribute to the safe performance of declared health services and the management of infection risks, for example, the professional standards which apply to the professional performance of registered health practitioners. What it does mean, however, is that it seems there is a level of misunderstanding and noncompliance by some healthcare facilities with their infection control obligations.

Two recent incidents have shown that in extreme cases this noncompliance has the potential to place the health and wellbeing of staff and patients at real risk of harm. This has been borne out by audits of high-risk health services conducted by Queensland Health recently. These audits revealed

that a number of healthcare facilities either do not understand or are not complying with their obligations to have an infection control management plan in place. As a result, the staff and contractors of those facilities are not being provided with sufficient guidance about how to recognise, minimise and prevent the particular infection risks which arise in those particular environments. It also means those facilities are inadequately equipped to detect and remedy any potentially harmful noncompliant infection control practices which do emerge. Clearly a statutory response is now required.

This response must be proportionate and targeted. There is no need to duplicate existing monitoring and regulatory functions performed by complementary processes and frameworks. Instead, what is required to close the regulatory gap I have spoken about are the stronger powers contained in this bill to investigate and take appropriate enforcement action in relation to the obligations imposed on the owners, operators and staff of healthcare facilities under the infection control framework. By making healthcare facilities' existing infection control obligations more easily enforceable and by creating new powers to investigate and enforce compliance with these existing obligations, the patients and staff of healthcare facilities can have greater confidence that infection risks are managed appropriately. The changes proposed in this bill will allow Queensland Health to focus its strength and compliance efforts on areas of greatest risk and on identifying and responding proportionately to instances of noncompliance.

Can I say, as I have said previously, most healthcare facilities are already complying with their existing infection control obligations and will not be impacted by this bill. However, I recognise the bill has the potential to impact on those healthcare facilities which do not properly understand or are not fully complying with their infection control obligations. In keeping with the targeted approach it engenders, the bill seeks to minimise the adverse impacts as much as possible. It does this by creating the discretion for Queensland Health to issue improvement and directions notices as an alternative to prosecuting operators for their noncompliance. These notices will make clear the remedial actions required to rectify the noncompliance and will be supported by a range of standards prescribed by regulation.

Operators who receive notices will be able to seek formal assurance from Queensland Health that the remedial actions they have undertaken are sufficient to meet the requirements of notice. The bill also places a range of appropriate limits on the exercise of discretions created by the bill including the discretion to issue notices and the discretion to enter a healthcare facility without prior notice. These limits ensure the impact on affected facilities and on the staff and patients of those facilities is proportionate.

I turn to some of the comments made during the second reading debate. The member for Surfers Paradise asked whether Queensland Health inspectors will have the capacity to enforce the amendments made by the bill. Allow me to assure all members of the House the bill is about working smarter, not harder. The powers created by the bill support targeted intervention by Queensland Health focused on risk and identified compliance issues. These powers will not be implemented in a vacuum but are supported by a range of regulatory frameworks and processes. Queensland Health already has strong monitoring processes in place. What the bill does is empower inspectors to properly investigate identified issues and to respond swiftly and appropriately. We do not need inspectors looking over operators' shoulders; we need them to be equipped with sufficient powers to respond to risk and identified need. The bill provides those powers.

The member for Surfers Paradise has expressed concern about the possible impact of the proposed standards to be prescribed under the Public Health Act. Queensland Health will work with affected stakeholders including the Australian Dental Association Queensland in developing the proposed amendment regulation. We want to work with industry to provide a useful resource, not impose unnecessary and onerous obligations.

The member reiterated his concerns that appealing a directions notice to the Supreme Court is onerous and expensive and that QCAT should have the power to review a decision to issue a notice. The decision to issue a directions notice will rely on careful and expert consideration of a number of often complex clinical matters. This is not a decision that can be remade easily by QCAT. Review would potentially involve significant costs for all parties.

The member suggested that replacement section 151, which imposes the obligation to take reasonable precautions and care on all persons involved in providing declared health services, is ambiguous. With respect, there is nothing ambiguous about the proposed section 151. It clearly states the duty of care of all persons working in healthcare facilities. All persons have a contribution to make to ensuring services at these facilities are provided safely. The bill does not create this obligation; it already exists in the act. The bill simply provides a penalty for failing to discharge it. That penalty will only be imposed as a last resort, but it needs to be there to make the provision properly enforceable.

The member is also concerned about blame being shifted between employees and operators of healthcare facilities. Let me be very clear: no-one can delegate their obligations under the act. An operator cannot shift blame onto staff for failing to ensure services are provided safely and in accordance with the infection control management plan; nor can staff rely on the fact they are working for someone else to avoid taking responsibility for their own actions and omissions. The member repeated a somewhat tired suggestion that the bill duplicates other regulatory frameworks such as the Health Practitioner Regulation National Law. While my department addressed this comprehensively in its briefings to the committee, let me reiterate for a final time the infection control framework complements other regulatory frameworks working together to ensure complex health services are delivered safely and reliably. As highlighted by the recent incidents involving dental practices, a strengthened infection control framework is essential. It does not duplicate; it closes a clear statutory gap.

The member appears to suggest that unlike medical practitioners, nurses, midwives and dental hygienists, all of whom made submissions in support of the bill, dental practitioners do not believe they should be subject to a reasonable infection control framework. The House should be sceptical about this view having regard to the recent infection control incidents.

The member for Surfers Paradise repeated the suggestion that the bill will inadvertently require Queensland Health to rewrite noncompliant infection control management plans. With respect, this concern is not borne out by the bill. Operators will not be able to avoid their responsibility to develop and implement a compliant ICMP and will face considerable penalties for failing to take this responsibility seriously.

Finally, the member sought my assurance that this right of immediate entry will be used appropriately and will be subject to safeguards. I am pleased to provide that reassurance. The bill requires inspectors to be judicious in their use of this discretion and to be mindful of the potential impact on the staff, patients and reputations of affected facilities.

The member for Cleveland reiterated concerns that Queensland Health is not sufficiently resourced to actively monitor the infection control framework. In doing so, he referred to an incident in Victoria where a doctor infected 50 women with hepatitis C by reusing dirty needles he had used on himself. The House should be aware that Queensland Health already undertakes routine surveillance of bloodborne viruses which are required to be notified to the department under the Public Health Act. Queensland Health has an established process for identifying and gathering further information surrounding newly acquired cases of hepatitis B and C. I am advised that a cluster of the sort referred to by the member would have been detected by the surveillance and would have been subject to active investigation and follow-up. As I have stated on several occasions, the bill will not operate in a vacuum; it will work together with other existing frameworks and processes.

In conclusion, I would again like to thank the members of the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee and the staff of the committee for their detailed consideration of this bill. I would also like to thank the submitters who took the time to provide feedback on the bill. It was helpful to have the considered input of several of our peak health practitioner bodies, in particular the Australian Medical Association Queensland, the Australian Dental Association Queensland, the Queensland Nurses and Midwives' Union and the Dental Hygienists Association of Australia.

I am pleased that this feedback was supportive overall. Queenslanders benefit from the leadership of peak bodies which recognise that a safe and well-regulated healthcare industry is in both the public and their members' professional interest. I would also like to acknowledge officers from Queensland Health for their work in developing this important bill. My thanks go to the public health policy experts in the Prevention Division, particularly the Chief Health Officer Dr Jeannette Young, Dr Sonya Bennett, Dr Heidi Carroll, Toni McLean and Chris Wold. I also want to thank officers of the Strategy, Policy and Planning Division, in particular Deputy Director Kathleen Forrester, the extremely hardworking David Harmer, Mark Zgrajewski, Ryan Robertson and Rashvin. I commend the bill to the House.