



Speech By  
**Christopher Whiting**

**MEMBER FOR BANCROFT**

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### **HEALTH AND OTHER LEGISLATION AMENDMENT BILL**

 **Mr WHITING** (Bancroft—ALP) (2.10 pm): I rise to speak in favour of the bill before the House and I do so as the chair of the State Development and Regional Industries Committee, which had the pleasure of examining the bill and preparing the report that members will be referring to. We were happy to help the Health and Environment Committee on this. We recommended that the bill be passed and we made some other minor recommendations that we think will aid with the implementation of the bill.

When examining the bill we found it heartening that the issue of the rights of Queenslanders was always close to the surface of the bill and the amendments contained within it. We found that the most time-consuming part of examining the bill related to the Viewer, which is the health record system of Queensland Health. We examined the proposal to extend access to the Viewer to a greater range of health professionals and allied health professionals, to not only doctors and nurses but also dietitians, speech pathologists, audiologists and exercise physiologists. For example, an exercise physiologist will be able to see a patient's records before recommending a suitable rehabilitation program; they will be able to make sure that the patient has not suffered from previous injuries before recommending that program. There is a lot of value for patients when allied health practitioners are able to access that information.

Obviously expanding access to the Viewer to more people in the system means managing confidential information. That quite rightly raised matters of privacy protection amongst many of the people listed as stakeholders. After examining the matter and asking many questions of the witnesses, we were satisfied that the current system works well and that the amendments will work well. As I said, we spent a lot of time discovering the answers to our questions. For example, questions were raised about whether the Viewer would work better as an opt-in system, where the patient chooses whether they want the information recorded, or an opt-out model, which is the current model where you have to actively choose to opt out if you do not want your information recorded. At this point the Viewer is an opt-out system. We saw how it works, we agree with it and certainly that is echoed in our recommendations. We want people to understand that they can call 13HEALTH to opt out of that system if need be. More information will be coming from Queensland Health about that.

I make this point: I am a little uncomfortable using the term 'health consumers'. Obviously the word 'patients' is problematic as well. I will probably use the word 'patients' rather than the words 'health consumers'. We thought that patients or consumers could be better informed about the option of opting out and that patients should or may be able to control information that goes into the system. That is why we recommended that Queensland Health build an awareness campaign and better functionality so that people can opt out.

I hear what the member for Mudgeeraba says about IT systems. That relates not only to Queensland Health; it also relates to, for example, councils and other large organisations. IT is always an interesting beast. We always need to be vigilant in ensuring that new systems are value for money and that they do work. Having said that, we have seen how the Viewer works and it works well, so we are on a solid basis moving into the future. While on the issue of information, the committee looked at

how information is managed. For example, searches made on the Viewer are recorded and there is an audit system or trail for people who access the Viewer, which was heartening to see. We also heard about the appropriate penalties that may be administered for breaching the confidentiality requirements for using the Viewer.

Another important aspect of the bill relates to the rights of Queenslanders when it comes to the operation of the Mental Health Act. The bill proposes changes to the Mental Health Act that cross a range of issues. For example, the Mental Health Court will not make a decision as to whether a person is of unsound mind when or if there is a dispute over a fact relied upon by an expert witness. In that case, the matter can be returned to the criminal courts to determine the facts. That is one of the changes proposed in the bill. It is a welcome and very understandable change. As we have heard, the bill proposes some welcome changes to improve the transfer process of mental health patients, whether that be interstate or overseas.

The committee spent a lot of time examining the proposed Mental Health Act changes that alter the process of approving ECT. We heard about the benefits of ECT, including a description of how it is a much better therapy than it was in previous years. The bill will improve the process for approving ECT, making sure that the patient's views are better taken into account. I refer members to page 18 of the report, which gives a great summary of adopting the rights approach as opposed to best interest. We asked Professor Allan about acting in a person's best interests. He said—

You have hit right at the heart of the debate ... One of things that is important to understand is that under the Human Rights Act we can no longer act in a person's best interest. That is considered to be too paternal. The Human Rights Act instructs us to take the person's interests, as stated there, into account.

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We have all sat around and talked about it. I would probably say that personally I would have thought that a few years ago too—that is, doctors know best, get on with it, let us get it done, the person wants the treatment so let us just do it. The issue that I have realised is that we do need to ensure we are quite meticulous about our attention to human rights, because if we say that it is okay for a doctor to make a decision at one point then we might lose some focus on human rights at another point.

I think that sums up well the difference in approach that is embodied in this bill. I do recommend those changes to the Mental Health Act.

The committee wanted to be very clear when covering the minor amendment involving medical students and the termination of pregnancy. When examining the bill we were at pains to make sure that there was no confusion and no doubt about requirements for medical students to assist in the termination of a pregnancy. On a couple of occasions in testimony from department officials we clarified that it will not be compulsory for students to assist or observe and that they will not have to do that as part of their assessment or to graduate. I commend the Queensland Health staff for covering well the need to make sure that we accommodate the human rights of those who have a conscientious objection to such a procedure. I want to clarify that we took great pains to understand the nature of this amendment and I commend the committee for that, including the member for Bundaberg and other members who were quite insistent that we find out exactly what that clause means.

Lastly, another issue in this bill worthy of mention is that QAS staff are now covered by the same duty of confidentiality obligations as other employees of Queensland Health. They have the authority to disclose information about the patient in their care in the same way as other members of Queensland Health. Obviously, QAS personnel operated under their own act. Certainly, they now are brought together with members of Queensland Health and the boards in those terms. They are actually operating under the same system. Once again there will be no confusion about the obligations of confidentiality exercised by the members of the Queensland Ambulance Service.

I thank our secretariat for their work on this bill. Health bills are always really interesting. They are quite comprehensive and a lot of stakeholders gave us quite a lot of information to digest. I commend the members of the committee for the time they spent going through this. I point out that the committee's report was without reservations. We worked closely together. We wanted to make sure that we got this one right. The issues contained in this bill are very important for the ongoing health of all Queenslanders. I commend the bill to the House.