




Speech By
Hon. Yvette D'Ath

MEMBER FOR REDCLIFFE

Record of Proceedings, 23 February 2022

HEALTH AND OTHER LEGISLATION AMENDMENT BILL

Second Reading

 **Hon. YM D'ATH** (Redcliffe—ALP) (Minister for Health and Ambulance Services) (12.44 pm): I move—

That the bill be now read a second time.

I thank the State Development and Regional Industries Committee for its careful consideration of the bill. The committee's report on the Health and Other Legislation Amendment Bill 2021 was tabled on 11 February 2022. There were five recommendations. The first recommendation was that the bill be passed. I appreciate the committee's support for the bill. I table the government's response to the committee's report on the bill and I will speak to the committee's recommendations in more detail shortly.

Tabled paper: State Development and Regional Industries Committee: Report No. 17, 57th Parliament—Health and Other Legislation Amendment Bill 2021, government response [184](#).

The Palaszczuk government is committed to delivering a healthcare system that supports the community. This bill updates health portfolio legislation to ensure it is operating effectively to support the health of Queenslanders. This bill is about ensuring Queensland's health legislation is keeping up with best practice so Queenslanders continue to receive efficient, world-class health care. The bill also amends the Environmental Protection Act 1994 to ensure essential community infrastructure such as satellite hospitals may be constructed efficiently.

The bill makes a number of amendments to the Mental Health Act 2016. The primary objective of the Mental Health Act is to improve and maintain the health and wellbeing of persons who have a mental illness. It is one of the most complex legislative frameworks in the health portfolio. This includes persons who do not have the capacity to consent to treatment and the treatment and care of persons who are diverted from the criminal justice system due to mental illness or intellectual disability. The act was introduced in 2016. A 2019 evaluation of the implementation of the act found that it was working well and that no significant changes were needed. However, there are always opportunities to improve and the bill aims to strengthen the rights of individuals with mental illness and enhance its alignment with the Human Rights Act 2019.

The bill will improve the process for approving electroconvulsive therapy, ECT, by providing additional safeguards to protect the rights of people who cannot give informed consent to ECT or who may be vulnerable in doing so. The bill will amend the test applied by the Mental Health Review Tribunal for approving the performance of ECT to a more rights based approach, in line with contemporary practice, by requiring the tribunal to have regard to the wishes and preferences of the prospective patient. The bill also inserts additional oversight for persons subject to treatment authorities to ensure they have given consent to ECT and for forensic patients who may be susceptible to believing they are required to consent to ECT as a requirement of their order.

The bill amends provisions in the act that regulate the transfer and transport of patients to and from interstate mental health services. These amendments provide a stronger rights based approach for patients requesting interstate transfer and will better support patients to participate in decisions about their potential transfer. The bill will also allow the Mental Health Review Tribunal to approve international transfers for a person who is subject to a forensic or treatment support order in the rare circumstances that this is required.

During consideration in detail I will be moving amendments to the act to support the Queensland government's role to provide essential health support to Norfolk Island under the Intergovernmental Agreement on State Service Delivery to Norfolk Island. Queensland Health is now providing clinical governance and coordination services relating to health care for the Norfolk Island community, including mental health services. A technical issue has been identified with the interaction between the Queensland Mental Health Act and the Norfolk Island Mental Health Act 1996. The amendments will enable involuntary mental health patients to be transferred to Queensland for treatment which may be required for certain acute or complex matters. This is important because Norfolk Island may not always have the capacity or infrastructure to assist people who require acute or complex mental health care. The amendments will achieve this by allowing Norfolk Island mental health legislation to be prescribed as a corresponding law under the Queensland Mental Health Act. This will then be reflected in any amendment to the regulation.

The bill promotes better health outcomes by extending access to Queensland Health's public healthcare information system, the Viewer, to more allied health professionals. The bill amends the Hospital and Health Boards Act 2011 to enable a broader range of allied health professionals to have secure read-only access to the Viewer, with the relevant professions to be prescribed by regulation after commencement. Those of us who have been to hospital or supported someone at or after hospital know that it can be a stressful time, especially for emergencies, complex issues or repeat visits.

After hospital treatment, when a patient is visiting their allied health professional for follow-up care, they might be asked for specific information about their time in hospital and results. This is so the healthcare provider can make a professional judgement on how to give them the best possible care with access to accurate and up-to-date information like blood test results, medical imaging results, medications given and ongoing prescriptions. It is intended that audiologists, social workers, dietitians, speech pathologists, exercise physiologists, orthotists and prosthetists will be prescribed in the regulation to enable their access to the Viewer.

Hospital records will often contain sensitive and personal information and the privacy of this information is crucial. I note that allied health professionals with access to the Viewer will not have unfettered access to all records held in the system. Rather, searches can only be undertaken based on a set of unique patient identifiers to ensure that the patient is known to the allied health profession. All access to the Viewer is logged and regularly audited. Extending access to a range of allied health professionals will improve the continuity of care a person receives after they leave hospital and visit their allied health professional. Ultimately, this will promote better health outcomes for Queenslanders.

I will now briefly touch on some of the other amendments in this bill that will improve processes in the health portfolio. The bill will update the Public Health (Infection Control for Personal Appearance Services) Act 2003 to reduce red tape for businesses with infection control licences such as body piercing services and tattoo parlours and increase flexibility for local governments that administer the legislation. The bill will amend the Termination of Pregnancy Act 2018 and Criminal Code to enable students on clinical placement to assist with a termination under the supervision of a prescribed practitioner to ensure students can gain necessary experience. The bill makes a minor clarification to the Transplantation and Anatomy Act 1979 to provide that donated human milk is not human tissue that is prohibited from trade. Donated human milk is essential for treating vulnerable preterm infants.

Turning to the committee's report and recommendations on the bill, I acknowledge the work of the committee and the secretariat and thank the stakeholders who provided valuable feedback during the committee's inquiry. The committee has recommended that the bill be passed and I appreciate the committee's support for the bill. In relation to recommendation 2, the government supports recommendation 2 which requested that I provide detail on how instances of environmental nuisance relating to a ministerial infrastructure designation as exempted by the amendment to the Environmental Protection Act 1994 would be investigated and regulated. Whilst this is the portfolio responsibility of the Deputy Premier, Minister for State Development, Infrastructure, Local Government and Planning and Minister Assisting the Premier on Olympics Infrastructure, I am advised that the proposed amendments do not change the existing compliance and enforcement arrangements under the Planning Act 2016. Under the Planning Act, failure to comply with the requirement of an infrastructure designation may be a development offence. Administration and enforcement are the responsibility of local governments, reflecting their experience and expertise to investigate and regulate these matters.

The committee's third recommendation was for Queensland Health to examine enhancing the functionality of the Viewer in consultation with key stakeholders to allow individuals to have greater control over who can access specific information or categories of information. The Viewer does not currently enable individuals to selectively limit access to specific records or categories of healthcare information. However, there are options available for individuals who wish to generally limit access to their information. If a person does not want their health professional to have access to their public healthcare records, they can call 13HEALTH. Patients may opt out from all health professionals accessing their information or limit access to specific categories of health professionals.

I also reiterate the privacy safeguards I mentioned earlier which ensure allied health professionals are only able to access appropriate patient files. However, I acknowledge that some stakeholders considered that patients should have greater control over the information on the Viewer, including the ability to limit access to particular parts of their medical records. The government supports this recommendation. Queensland Health will examine the functionality of the Viewer to see whether changes could be made to give patients increased control over the information that is shared. This process will include consultation with clinicians and health consumers and will consider the technical feasibility and cost of any system changes.

The committee also recommended at recommendation 4 that Queensland Health deliver a comprehensive and accessible engagement campaign to inform the community about what health information is available on the Viewer and how they can control it and who can access it. The government supports this recommendation and Queensland Health will develop a consumer engagement strategy developed in consultation with Health Consumers Queensland to inform patients and the community about the changes to the Viewer. Health Consumers Queensland has significant experience in consumer engagement and communications between health services and consumers and its expertise will be invaluable in delivering information in a way that is accessible and connects with patients.

The committee's final recommendation, recommendation 5, is to clarify some details about the amendments to allow students on clinical placement to assist authorised health practitioners with terminations of pregnancy. These amendments are to ensure students can legally assist the healthcare professionals performing the procedure when they are on clinical placements where terminations of pregnancy may happen. The purpose of this is to provide students with appropriate learning opportunities before they become qualified health practitioners. Students, like registered health practitioners, can conscientiously object. Tertiary education providers are responsible for curriculum and qualification requirements for study. However, I can confirm that the bill does not make it compulsory for students to assist with or observe terminations of pregnancy to complete their qualifications.

Preventing students who conscientiously object from being able to fulfil clinical placement requirements would raise questions of compliance with the right to freedom of thought, conscience, religion and belief under the Human Rights Act. The point of the amendments is not to prevent completion of training; it is to enable opportunities for those who wish to take them. The committee inquired about alternative study options for students who express a conscientious objection. There is no shortage of clinical education options for students who do not wish to assist with termination of pregnancy. Students undertake clinical placements in numerous settings, including large hospitals that provide a diverse range of services.

I also confirm that students will be supported to express a conscientious objection to assisting. Queensland Health is working with higher education providers to encourage them to develop tailored material to support students. The conscientious objection process is well understood in healthcare settings, as the termination of pregnancy laws have been in place for several years now. There are many resources to support health practitioners to understand the process of conscientiously objecting and these will be updated to incorporate students. In practice, it is likely that students would be informed about the possibility of assisting with termination of pregnancy before they start a clinical placement. This means that they will have the option to conscientiously object well before a placement begins and be provided with alternative learning opportunities. Current and prospective students can be assured that their studies will not be limited on the basis of their conscientious objection.

As I have outlined, this bill makes wideranging amendments to health portfolio legislation. The amendments are diverse, but what they have in common is that they are designed to ensure high-quality health care, up-to-date practices and procedures and enhance human rights. I again thank the committee for its detailed consideration of the bill and the stakeholders who provided submissions to the committee's inquiry and engaged with the bill. I commend the bill to the House.