




Speech By
Stephen Andrew

MEMBER FOR MIRANI

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HEALTH AND OTHER LEGISLATION AMENDMENT BILL

 **Mr ANDREW** (Mirani—PHON) (12.01 pm): I rise to speak on the Health and Other Legislation Amendment Bill 2022. The bill amends the Hospital and Health Boards Act 2011, the Medicines and Poisons Act 2019, the Mental Health Act 2016, the Public Health Act 2005, the Radiation Safety Act 1999, the Recording of Evidence Act 1962, the Transplantation and Anatomy Act 1979 and the Water Fluoridation Act 2008. According to the bill's explanatory notes, the main objectives of these amendments are: to facilitate initiatives that promote the health of Queenslanders; to support the provision of health services in Queensland; and to improve the operation of health portfolio and related legislation.

The bill's amendments to the Hospital and Health Boards Act are aimed at strengthening protections for the wellbeing of workers in Queensland public health services including clinical, administrative and operational staff. Currently, there are a number of work health and safety obligations imposed by both Queensland and Commonwealth legislation on the protection of workers' wellbeing generally; however, there are no protections in place that specifically relate to health workers. The bill, therefore, seeks to fill this gap in the legislation. In doing so, it recognises the vital importance that protecting the mental health of our healthcare workers plays in the delivery of optimal health care to the public. It also places a value on the wellbeing of healthcare workers, who are uniquely exposed to multiple stress factors that most workers are not called on to face. These stresses can have a major influence on a health worker's physical, mental and emotional wellbeing and on staff morale overall. Today, many other factors are contributing to the evaluated stress levels of our health workers including heavy workloads, long shifts, postponed leave entitlements, loss of work-life balance, moral conflicts, job insecurity, workplace related bullying and a lack of support. Psychological distress and exhaustion can quickly lead to burnout, depression, anxiety, sleeping disorders and poor health generally. This can ultimately impact on their personal life and relationships as well as their work life in terms of job satisfaction and their sense of wellbeing and motivation.

If too many healthcare workers are affected, it can have the effect of lowering the standard of quality of care across the whole sector. That is why it is critical that something is done to mitigate these work related stresses and that effective strategies and protocols are put in place to better protect our healthcare workers. To this end, the bill introduces provisions that will require hospital and health services and hospital and health boards to proactively consider ways of supporting the wellbeing of healthcare workers including staff who perform community or home-based work. Queenslanders need a healthy hospital workforce to support them, and the bill's amendments in this regard are to be commended. As the minister said when introducing the bill—

The amendments will enshrine in legislation that the physical and psychological health, safety and wellbeing of the public health workforce is appropriately prioritised.

More importantly, the bill's changes will greatly help to rebuild the morale, confidence and resilience of workers following the traumatic experience of the last few years and will better protect workers in the future.

Clause 35 of the bill proposes to make changes to the Recording of Evidence Act 1962 in order to facilitate electronic recording of evidence before the Mental Health Review Tribunal. This is a development I strongly support. Complete, accurate and accessible records are fundamental in any legal proceedings, especially among those who may be affected by an impaired decision-making capacity that could affect their recollection and perception of those proceedings. It is also vitally important for the relatives of those with impaired decision-making capacity to be able to access such records of proceedings in order to fully understand the circumstances of their loved ones in voluntary treatment. My one complaint, however, relates to the statement made in the explanatory notes that electronic recording will be a default practice but exceptions may be made where there are 'compelling reasons' not to do so such as patient distress. I do not agree that there should be any exceptions made to the recording of proceedings. Transparency is vital for the protection of an individual's rights and for increasing levels of trust. Moreover, if exceptions are to be made then this should be expressly stated in the legislation instead of simply allowing for broad decision-making powers that are discretionary without any real parameters.

Section 30 of the Human Rights Act 2019 protects a person's right to a fair and public hearing and for judgements to be publicly available. The publicity of hearings and decisions ensures transparency of proceedings, which in turn safeguards the interests of the individual and society at large. The recording and/or transcription of proceedings enhances accuracy, transparency, open governance, trust and democratic principles particularly in jurisdictions such as mental health, where authorities may have conflicting reasons for not making its proceedings and decisions public.

The bill proposes changes to the Mental Health Act 2016. Clause 15 allows a patient to waive their right to legal representation in other ways, rather than exclusively in writing. Basically, this would allow a patient to give verbal consent alone. The requirement for a waiver to not be put in writing was positioned as an efficiency measure, due to a written waiver being seen as little more than an administrative burden for the tribunal and one that can 'create a barrier to individuals exercising their rights in a timely manner'.

While I support the change, I do so with some reservation. The right to legal representation is a core principle of the Australian democratic legal system. The reason for having a person waive this right in writing is to help safeguard the rights of individuals appearing before a court or tribunal. Therefore, arguments for the removal of this protection should never be made on the utilitarian grounds of 'speed and efficiency'. To do so sets a dangerous precedent where rights may be viewed as little more than an impediment to good governance. The protection of human rights was not put in place for the efficiency of governments, the judiciary or officialdom. If that were true, no protections at all would be allowed. The reason I support the change is purely for the benefit of those making the waiver and because the bill includes important safeguards to ensure the individual's rights are preserved. Specifically, the bill requires that, where a waiver is requested, the tribunal must be satisfied that it would not cause injustice to the person. If a waiver is done verbally, it must only be done in circumstances where there is a recording and transcription of such a waiver. These are important safeguards, and I was pleased to see that they had been included.

Finally, I note that the bill also ends the Transplantation and Anatomy Act 1979 to: facilitate the supply of human tissue products by removing the requirement for Queensland doctors to apply for ministerial permits as well as an approval under the Therapeutic Goods Administration Special Access Scheme; and support consistency in the practice of donating human tissue in Queensland by ensuring consent processes are consistent between public and private hospitals.

Currently the Transplantation and Anatomy Act permits buying and selling and trading in tissue where trading is for therapeutic, medical or scientific purposes. These categories do not include goods approved by the TGA's Special Access Scheme which means that, after a request is approved under the Special Access Scheme, Queensland doctors also need to obtain a ministerial permit before they can purchase certain goods. A ministerial permit is granted on the basis that the TGA approval has already been given. According to Queensland Health, this duplication can delay the provision of important lifesaving health care for patients. The bill therefore exempts the requirement for doctors to apply to Queensland Health for a ministerial permit to be able to purchase products for patients after they have received Special Access Scheme approval from the TGA.

The bill also streamlines the process for family members to consent to tissue being removed from a deceased person in a private hospital by aligning it with consent processes applicable in public hospitals. In a private hospital situation, the requirement for written consent to be obtained can be an unwelcome imposition on families at what is an extremely distressing time for them. Accordingly, the bill's amendments will enable families in private hospitals to provide verbal consent to organ donation, as is currently the case in public hospitals. This streamlining of consent processes is aimed at facilitating tissue donation in Queensland, helping to save many lives. In conclusion, I commend the government on changes made in the proposed legislation. I support the bill.