




Speech By
Hon. Yvette D'Ath

MEMBER FOR REDCLIFFE

Record of Proceedings, 18 April 2023

HEALTH AND OTHER LEGISLATION AMENDMENT BILL

Second Reading

 **Hon. YM D'ATH** (Redcliffe—ALP) (Minister for Health and Ambulance Services) (5.47 pm): I move—

That the bill be now read a second time.

I would like to acknowledge the work of the Health and Environment Committee in conducting its inquiry into the bill and thank the committee for its report tabled on 24 February 2023. The committee made five recommendations: the first 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. I will speak to the committee's recommendations in more detail shortly.

Tabled paper: Health and Environment Committee: Report No. 29, 57th Parliament—Health and Other Legislation Amendment Bill 2022, government response [501](#).

The Palaszczuk government is committed to the ongoing improvement of Queensland's healthcare system to ensure it continues to deliver the best possible health outcome for the community. Queenslanders are fortunate to have access to world-class health care. The Palaszczuk government is making every effort to ensure our health system embraces opportunities for efficiencies and advancements and keeps up with best practice. This bill updates health portfolio legislation to ensure it is contemporary, effective and appropriately supporting our hardworking public health workforce.

The bill also amends the Recording of Evidence Act 1962 to establish a statutory framework for prescribed tribunals. The bill will amend the Hospital and Health Boards Act 2011 to require hospital and health boards and hospital and health services to proactively consider ways to support the health, safety and wellbeing of their staff. Hospital and health service staff are crucial to the success of Queensland's public health system and they need to know that their wellbeing is a priority. Making hospital and health services and hospital and health boards directly accountable for their staff's health and wellbeing in legislation is an important step towards creating healthier, more supportive work environments for healthcare workers. Queenslanders can only be healthy and stay healthy if we have a healthy workforce to support them.

The bill will require boards and HHSs to promote a culture and implement measures within their HHS to support the health, safety and wellbeing of all staff working in public sector health services. This will bring staff wellbeing considerations to the forefront of planning and service delivery for Queensland's public health services in recognition of the unique challenges this workforce faces. The new obligations will contribute to the Palaszczuk government's efforts to grow the health workforce in Queensland and retain and support staff once they join this workforce.

Security officers working in Queensland's hospital and health services play a vital role in ensuring these facilities are as safe as possible for patients, staff, families and visitors. This can be challenging. Healthcare workers and health security officers are often dealing with people in stressful, unpredictable

and potentially volatile situations. The bill will amend the Hospital and Health Boards Act to make clear that health security officers cannot provide a direction for a person to leave hospital and health service land if the person requires emergency medical treatment.

The bill will also amend the Public Health Act 2005 to insert the Queensland Health Primary School Nurse Health Readiness Program, known as the vision-screening program, as a program to which student information can be disclosed under the act. This will enable vision-screening nurses to oversee the consent process for vision screening and follow up with families without relying on school staff. The amendments will reduce the administrative burden on school staff and nurses and maximise the number of children who are screened for the leading cause of preventable vision loss. Ultimately, this will promote better health and educational outcomes for children in Queensland.

The bill will amend the Public Health Act to modernise and increase the data notified to the Queensland Cancer Register so that it can provide a better picture of cancer and cancer related treatments in Queensland. The bill will introduce notification requirements for diagnostic imaging practices and expand notification requirements for pathology laboratories and hospital notifiers. These changes will result in significantly more data being notified, improving the completeness and quality of cancer data in Queensland. This data will be used for research into the cause of cancer and for programs to educate the Queensland community about the risks of cancer.

The bill will amend the Recording of Evidence Act 1962 to establish a new statutory framework for recording the proceedings of prescribed tribunals and providing access to copies of records and transcriptions of the proceedings. The existing framework under the act is not readily adaptable to smaller tribunals, such as the Mental Health Review Tribunal, that have particular requirements and often do not sit in a regular controlled premises, such as a courtroom.

The new framework established by the bill preserves the requirement for the recording of all relevant matters in proceedings of prescribed tribunals but will allow more flexibility in how they may be recorded and how the records of proceedings may be provided. Under the new framework, a prescribed judicial person for a prescribed tribunal may arrange for the recording of proceedings and the transcription of records. The prescribed judicial person must ensure arrangements are in place for providing copies of records or transcriptions of records.

The new framework provides safeguards to protect the privacy, safety and wellbeing of persons referred to in records or transcriptions of records by providing that access to a copy of a record or transcription may be restricted by legislation or an order of a court tribunal or judicial person. The tribunals to which the new framework will apply will be prescribed by regulation. It is intended the Mental Health Review Tribunal will be a prescribed tribunal.

The bill also amends the Mental Health Act 2016 to ensure there are no barriers to the Mental Health Review Tribunal transitioning to electronically record its proceedings and share records of hearings. It is intended that electronic recording of proceedings will be the default position of the Mental Health Review Tribunal. However, the bill allows for another method of record keeping to be used if there are compelling reasons that make electronic recording inappropriate, such as where it would cause significant distress to a person appearing before the tribunal. In recognition of the sensitivity and typically closed nature of the Mental Health Review Tribunal proceedings, the bill limits who the Mental Health Review Tribunal can provide electronic records or transcriptions to. The amendments aim to promote fairness, accountability and accessibility in proceedings about the treatment of vulnerable people in our community.

The bill will also amend the Mental Health Act to allow adults with capacity to waive their right to legal representation by any means, including verbally. Waivers will no longer have to be provided in writing if the Mental Health Review Tribunal is satisfied it would not cause injustice to the person. The requirement for a waiver to be in writing can be an administrative burden for patients and create unnecessary delays. It has resulted in situations where the tribunal has had to adjourn a proceeding until a written waiver can be completed. During an adjournment period, a person's involuntary treatment can continue without independent review, or access to important treatment may be delayed. Given the importance of the right to representation, the bill inserts safeguards to only allow a verbal waiver in place of a written waiver if the tribunal is satisfied that this would not cause injustice to the person. This may include, for example, where the proceeding is electronically recorded.

The bill will also make amendments to the Medicines and Poisons Act 2019 to allow information to be disclosed to protect the health and safety of the community. The bill will ensure that Queensland Health can disclose confidential medicines and poisons information to a hospital and health service, the Veterinary Surgeons Board of Queensland and law enforcement agencies for regulation, safety and compliance purposes. The amendments will also enable members of the public and wholesalers to verify whether a person they are dealing with has appropriate approvals to deal with medicines or poisons.

The bill will authorise the chief executive of Queensland Health to disclose information from the substance authority register by providing information directly to a person or publishing information from the register on the department's website where it is in the public interest and to disclose information from the administrative action register directly to a person where it is in the public interest. The public interest test is a high bar that protects the privacy of health practitioners and primary producers with substance authorities while ensuring that members of the community can have access to information that could help them to avoid public health risks. The bill will also make other technical and clarifying changes to improve the operation of the Medicines and Poisons Act.

The bill will amend the Transplantation and Anatomy Act 1979 so that the consent processes for organ donation that apply in public hospitals also apply in private hospitals. This will mean families in private hospitals can provide verbal consent to organ donation followed by written consent. Grieving families will no longer have to deal with intrusive paperwork at a difficult time, removing a barrier to successful organ donation. The bill will also remove the requirement for a Queensland doctor to be granted a ministerial permit before they can obtain tissues supplied under the Therapeutic Goods Administration Special Access Scheme. Omitting this duplicative approval process will allow life-saving products to be supplied more efficiently to people who require them.

Finally, the bill will amend the Water Fluoridation Act 2008 to remove the requirement that fluoridation decisions must be notified in a newspaper and replace it with a requirement that the decision be made publicly available. It will also make two technical amendments to the Radiation Safety Act 1999 to improve the operation of the act and its interaction with the Radiation Safety Regulation 2021.

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. As I have already mentioned, the committee recommended that the bill be passed and I appreciate the committee's support for the bill.

The committee recommended at recommendation No. 2 that hospital and health services and hospital and health boards regularly report on their progress on supporting staff health, safety and wellbeing at a minimum in their annual reports. The government supports recommendation No. 2 in principle. Subject to the passage of the bill, I will write to hospital and health boards and hospital and health services to bring the committee's recommendation to their attention and encourage them to include updates about their efforts to support staff health, safety and wellbeing in their annual reports.

The committee's third recommendation requested that I outline the process for assessing any requests for disclosure of information on the administrative action register under the Medicines and Poisons Act, as proposed by clause 13 of the bill, and how the chief executive will determine whether it is in the public interest to disclose information.

The policy intent of this amendment is to allow delegated decision-makers to consider the risks associated with providing information from the administrative action register that are relevant to each case and have discretion about whether or not to provide information based on a public interest test. A form will be available on the Queensland Health website for people to use to make formal requests for information from the register. A public interest decision tool will be developed to assist Queensland Health decision-makers to make sound decisions. Decision-makers will be provided with guidance and training on applying the public interest test to respond to requests for confidential information from the register. Factors such as the nature of any health risks to the public, the level of the health risks and the risks of harm to the person whose information may be disclosed will all be relevant to whether it is in the public interest to disclose information. Decisions to disclose information will be made on a case-by-case basis.

In addition, the process for assessing any requests for disclosure of information on the administrative action register will consider: whether the information is publicly available elsewhere; who the person requesting the information is—for example, are they a member of the public seeking information for general knowledge or a health professional seeking information about a member of the health profession for the purpose of treating patients; the reason for requesting information; any risks associated with giving the information; relevant human rights and whether the benefits gained by giving the information outweigh any risks associated with giving the information. The process for assessing requests for disclosure ensures that, if a decision is made to provide information, it is in the public interest to do so.

The committee also, at recommendation 4, recommended that resources for technical or administrative support be provided to the Mental Health Review Tribunal to make recordings and transcriptions of proceedings. Queensland Health has worked closely with the Mental Health Review Tribunal since it trialled electronic recording in 2020 and during development of the bill to ensure that the tribunal has the capacity to electronically record proceedings and appropriately share records. The

tribunal has advised that, subject to the passage of the bill, it will commence electronic recording as soon as the new legislative framework has commenced. No barriers to this have been identified. The tribunal will have the resourcing and skills to make recordings in-house. It already owns the recording devices it will require and is developing a training package for members about conducting recordings. The tribunal intends to appoint a dedicated staff member to support the recording process. Other costs of implementing electronic recording will be met through existing Queensland Health budgets.

The committee's final recommendation is for Queensland Health to consider as a priority the inclusion of all basal cell carcinomas and squamous cell carcinomas as notifiable cancers in future amendments to the Public Health Regulation 2018. As the committee noted, Queensland has the highest rate of skin cancer in Australia. Queensland Health's approach to date has focused on obtaining data for the particular types of skin cancers with the worst outcomes for Queenslanders such as melanoma and rare cancers. This is in line with most Australian cancer registries which do not routinely collect data for any types of basal cell carcinomas or squamous cell carcinomas of the skin. Queensland Health will consider as soon as possible whether to amend the Public Health Regulation to make all basal cell carcinomas and squamous cell carcinomas notifiable skin cancers. As someone who has had all three, I welcome them considering this. This will include careful consideration of the resource impacts for Queensland Health and health providers, and whether the extra information would create benefits for effective system planning, preventative interventions and resource allocation at this time.

The amendments in this bill are designed to ensure Queenslanders have access to high-quality health care, up-to-date practices and streamlined procedures. They also aim to promote healthy and supportive work environments to safeguard the mental health and wellbeing of our doctors, nurses, midwives, allied health professionals and our administrative and support staff working in hospitals. Our frontline health workers show up every day to keep us healthy and provide support to Queenslanders during stressful and difficult times. This bill will help to ensure this crucial workforce continues to get the support they need to stay healthy and well. I would like to take this opportunity to thank them again for everything they do. I commend the bill to the House.