



Speech By
Jon Krause

MEMBER FOR BEAUDESERT

HEALTH OMBUDSMAN BILL

 **Mr KRAUSE** (Beaudesert—LNP) (8.34 pm): It is an honour to stand and speak in support of the Health Ombudsman Bill 2013. This bill establishes the new position of Queensland Health Ombudsman to manage health service complaints in Queensland. It removes the existing role confusion between complaints entities by requiring all health service complaints to be made to the Health Ombudsman rather than being split between the HQCC and the national health registration boards, as is presently the case. The Health Ombudsman will assume the role of managing serious allegations against registered health practitioners. It will have the power to take immediate action to suspend or place conditions on a health practitioner's registration where there is a serious risk to the public. The Health Ombudsman, through the director of proceedings appointed under this bill, may take disciplinary matters against registered health practitioners to the Queensland Civil and Administrative Tribunal, QCAT.

The process for making of a complaint is like this: a health service complaint, which is a complaint about a health service or any other service provided by a health service provider—and that is defined and set out in the bill—includes conduct or performance of a health practitioner, treatment or care provided to an individual, adequacy of a response by a health service provider or the level of compliance by a provider with professional standards. Any person can make such a complaint, such as an individual who has received that service, a guardian of a person who has received a service or even another health practitioner who has concerns about the conduct of one of their fellow professionals. I think this is an important provision as other professionals are enabled and encouraged perhaps to report concerns they have about the professional conduct of their colleagues to an appropriate regulatory body. Complaints can be made orally or in writing. One of the good things about this bill is that the Ombudsman will be required to assist a person to make a complaint. I would imagine that complainants will not be required to seek professional advice, legal advice or any other sort of advice because the Ombudsman will be able to assist them in making their complaint.

On the acceptance of a complaint about a healthcare professional, the Ombudsman can take a whole range of actions. They can assess it to decide the most appropriate course of action to be taken. They can facilitate mediation between the parties. They can investigate the matter. They can refer the matter to the director of proceedings to see if it needs to be taken to QCAT. They can conciliate the complaint. They can inquire into the matter. They can refer it to someone else. They have a whole range of options for dealing with a complaint about the quality of care they have been provided with by a healthcare provider. They can take action regardless of whether or not a health service complaint has been made about the matter. So they can act of their own accord. That is an important step as well because sometimes complaints are not made about issues relating to a healthcare provider that have come to the attention of people in the community or the professional community. So giving an Ombudsman the power to take action regardless of whether or not a complaint has been made is an important step.

The purpose of the early resolution option which is available to the Ombudsman is to facilitate resolution of the complaint as quickly as possible and with minimal expense and minimal intervention by the Ombudsman. I think we would all agree that minimal expense and minimal intervention by third parties in matters like this is a good thing. The last thing that people want is expensive intervention, whether it be by court action or other expensive arbitration where QCs, SCs and other expensive lawyers like the member for Nanango get involved.

Mrs Frecklington: Now, now.

Mr KRAUSE: Sorry, member for Nanango. We do not want expensive legal processes to be a part of this. The ombudsman has the power to facilitate early resolution, to investigate of his own accord and to try and work out matters between the parties before they escalate. The Health Ombudsman can also take immediate action in relation to a health professional's registration. They can suspend a registration or they can impose conditions on a registration. They can do this regardless of whether or not a complaint has been made. Immediate action on a health practitioner's registration can be taken in a variety of circumstances; for example, where the ombudsman reasonably believes that because of the practitioner's health, conduct or performance they pose a serious risk to people in the community and it is necessary to take action to protect public health or safety.

In this scenario the ombudsman must follow a specified show cause process before that deregistration action is taken. Immediately after taking any action to put conditions on or to suspend a practitioner's registration, the Health Ombudsman must investigate the matter. They can refer the matter to the national body or they can refer the matter to the director of proceedings, who can then assess whether or not things go to QCAT or to another body. The ombudsman can also enter into an interim prohibition order to prevent a health practitioner providing any health service, or they can impose restrictions on the health services provided by that practitioner. As you can see, the bill provides a number of avenues for complaints to be made to the ombudsman and provides the ombudsman with a range of powers to deal with those complaints or to take other action based on knowledge which has come to the ombudsman, even when a complaint has not been made about a health practitioner.

The Health Ombudsman established under this act can also decide to investigate a matter or may be directed to investigate a matter by the Minister for Health, whoever that may be. The bill requires the Health Ombudsman to complete an investigation as quickly as possible or as quickly as reasonable in all of the circumstances. The Health Ombudsman may ask for an extension of a time frame on a three-monthly interval, but it should be completed within two years as is set out in the act. If it is not completed within two years, they need to report it to the parliamentary committee and the minister. I think it is a good move to impose a specified time frame in which investigations must be completed. We have seen a number of examples over recent years where regulatory and investigative bodies have taken excessive amounts of time to finalise investigations to the detriment of people affected by those investigations. I should mention that some of the people most affected by these types of investigations are people against whom complaints have been made. I have a number of constituents in my electorate who in the past have had complaints made against them for one reason or another arising from their conduct at Queensland Health. Whilst they have been given the opportunity to respond to those allegations of misconduct or other inappropriate behaviour, they have been left hanging by a system of complaints management which has extended out and out and out to the point where complaints made three or four or five years ago are still unresolved. Meanwhile, a person's life is put on hold. They cannot work and they suffer damage to their reputations as a result of unresolved complaints. They also cannot talk about the complaints made against them because they are subject to the confidentiality requirements which are inevitable in these circumstances. There is a need for the prompt resolution of health complaints.

The director of proceedings set up under this bill will be a lawyer appointed to the office of the Health Ombudsman to independently determine whether an investigation should be referred to QCAT. In addition, the bill empowers the director of proceedings to take to QCAT for consideration serious matters about health practitioners who are not registered. QCAT has various powers to make orders in relation to a practitioner. In addition to that, the Health Ombudsman will be solely responsible for deciding the best way to deal with each complaint. This bill establishes the Health Ombudsman as a one-stop body for the resolution of complaints about health care in this state.

There has been some discussion in the House and in other areas of commentary about the means by which the Health Ombudsman is to be appointed. I understand that there are going to be

differing opinions on this. Under the bill, the Health Ombudsman would be appointed by the Minister for Health in consultation with the relevant committee of the parliament, and that is the way it should be. That is the way it is in all statutory appointments in this state bar one. The exception to that rule is in relation to the Crime and Misconduct Commission, where the appointment of the chair of the Crime and Misconduct Commission is made with the concurrence and the bipartisan support of the Parliamentary Crime and Misconduct Committee. The CMC is a very exceptional body in this state. It has always been established as a standing royal commission, and that is why it is an exception to the rule that appointments of this type are made by the executive of government. The basis in this bill for the appointment of the Health Ombudsman by the Minister for Health, in consultation with the relevant parliamentary committee, is sound and consistent with the principles of responsible government we have—and have had—in this state for a very long time. I commend the bill to the House.