

[Home](#) » [Hansard & Papers](#) » [Legislative Council](#) » [17/11/2004](#) »

# NSW Legislative Council Hansard

## HEALTH LEGISLATION AMENDMENT (COMPLAINTS) BILL HEALTH REGISTRATION LEGISLATION AMENDMENT BILL NURSES AND MIDWIVES AMENDMENT (PERFORMANCE ASSESSMENT) BILL

Page: 12940

### Second Reading

**The Hon. IAN MACDONALD** (Minister for Primary Industries) [11.15 a.m.]: I move:

That these bills be now read a second time.

To inform honourable members of what this legislation is about, I will read the explanatory note to the bill:

The object of this Bill is to amend the *Health Care Complaints Act 1993* (**the Principal Act**):

(a) to enable the Health Care Complaints Commission (**the Commission**) to focus on dealing with serious complaints concerning health practitioners, health service providers and the provision of health services, and—

(b) to establish the Health Conciliation Registry as a separate unit within the Commission to deal with the conciliation of complaints, and

(c) to enable the Commission, in appropriate circumstances, to deal with complaints through alternative dispute resolution procedures, and

(d) to require the Commission to appoint a member of staff as Director of Proceedings to exercise the function of the Commission of determining whether a complaint should be prosecuted before a disciplinary body.

I seek leave to have the remainder of the second reading speech incorporated in *Hansard*.

### Leave granted.

On 14 September the Health Legislation Amendment (Complaints) Bill and two cognate bills were released as exposure draft bills for public comment. The bills implement the recommendations of the Special Commission of Inquiry into Campbelltown and Camden Hospitals and the review of the Health Care Complaints Act 1993 undertaken by the Cabinet Office. The bills have been the subject of an extensive public consultation process during which 20 submissions were received. The Cabinet Office also met with a number of key stakeholders, and their views have been carefully considered. In many instances changes have been made to the bills that I am introducing today. Details of the issues raised through the consultation period and the Government's response to those matters are set out in a consultation report, which I seek leave to table.

I take this opportunity to thank all stakeholders who made submissions on the draft bills. The first main purpose of the bills is to refocus the Health Care Complaints Commission [HCCC] on investigating serious complaints about health service providers. To achieve this, Commissioner Walker recommended that unsatisfactory professional conduct be redefined so that only significant instances involving a lack of skill, judgment, or care will result in an investigation or disciplinary action. "Unsatisfactory professional conduct" will be defined as "any conduct that demonstrates that the knowledge, skill or judgment possessed, or care exercised, by the practitioner is significantly below the standard reasonably expected of a practitioner of an equivalent level of training or experience". The reference to "significantly" in that context may refer to a single act or omission that demonstrates a practitioner's lack of skill, judgment or care, or it may refer to a pattern of conduct. In any individual case, that will depend on the seriousness of the circumstances of the case.

The Pharmacy Board of New South Wales and the Australian Psychological Society raised a concern about assessing unsatisfactory professional conduct by reference to other practitioners of an equivalent level of training or experience. Those organisations considered that all practitioners should be judged by the entry level standard for practitioners and should not be judged by the differing levels of training and experience, which practitioners acquire over time. They suggested that practitioners should be able to treat all conditions, regardless of their level of experience. The Government does not support that view. A practitioner who has only recently commenced practice should not be held to the same standard as a more experienced practitioner and be expected to treat all conditions. It would be unfair to expect a registrar to be able to treat a condition that should be treated only by a specialist.

I note that all practitioners will still need to meet the entry level standards reflected in the requirements for registration. A number of recommendations of Commissioner Walker sought to give the HCCC greater flexibility in dealing with complaints. This is consistent with the goal of refocusing the HCCC on investigating serious complaints. These changes will ensure that the HCCC and the registration boards have a broad range of options available to them for dealing with complaints where a complaint is assessed but does not meet the threshold for investigation. One of those options, which

will be provided for in proposed section 25B of the Act, will allow the HCCC to refer a matter to a registration board for consideration of performance assessment. Under proposed sections 20A and 39, the HCCC will be able to use that option at any time while dealing with a complaint or at completion of its investigation.

Proposed section 25B of the Health Care Complaints Act is specifically designed to recognise the co-regulatory regime and will clarify that the HCCC does not have a supervisory role over the registration boards in relation to performance assessment. The proposed section will make it clear that investigation by the HCCC and performance assessment by the registration boards are alternative streams. The registration boards' current obligation to refer back to the HCCC serious matters which emerge when dealing with complaints, either by performance assessment or by other means, will be retained. This is recognised in a drafting note. The purpose of that clarification is to reinforce the co-regulatory nature of the complaints regime involving the health professional registration boards. It should be noted that Commissioner Walker particularly praised one of the registration boards—the Medical Board—for its handling of complaints falling within the board's area of responsibility. Commissioner Walker recommended also that performance assessment be introduced for the nursing profession.

Performance assessment has proven to be an effective means of reviewing a medical practitioner's performance. That is because performance assessment occurs in an environment focused on rehabilitation rather than punishment. Accordingly, the Nurses and Midwives Amendment (Performance Assessment) Bill introduces similar performance assessment provisions to those that have operated successfully for medical practitioners. The Government recognises that the implementation of those provisions will require considerable consultation by the Nurses and Midwives Board with the profession, including the Nurses Association. It is therefore proposed that the commencement of those provisions will be delayed until the necessary consultation and preparation is complete. Proposed section 3 of the Health Care Complaints Act seeks to redefine the objects of the HCCC. Proposed section 3A clearly sets out in the legislation which agencies and organisations in the health system have responsibility for improving standards.

The new objects for the HCCC emphasise that its primary role is the investigation of serious complaints, and the resolution of complaints through alternative dispute resolution. A number of stakeholders expressed strong support for the new objects of the HCCC. The bills also include a requirement for the HCCC to have regard to the protection of the public when exercising its complaints handling and other functions, bringing it into line with the health professional registration Acts which have an explicit public protection focus. The second main purpose of the bills is to improve the operation of the complaints handling process to make the process faster and more effective. That is to be achieved by proposed sections 21A and 34A of the Health Care Complaints Act, which will empower the HCCC to require the production of hospital, medical and practice records during assessment of a complaint and investigation.

In addition, when the HCCC investigates a complaint, it will be empowered to require relevant people to provide documents and information. Commissioner Walker recommended the introduction of those new powers on the grounds that early characterisation and assessment of complaints involving Campbelltown and Camden hospitals could well have been assisted by giving the HCCC greater access to records. Commissioner Walker also noted in that regard that such powers would involve questions of privilege and immunity in relation to evidence obtained in that way. For that reason, proposed new section 37A of the Act will provide that, while a person can be compelled to provide self-incriminatory information, that information cannot be used against them in criminal or civil proceedings if the person objects. The material will still be able to be used in disciplinary proceedings.

The HCCC is also excused from responding to a subpoena if the document to be provided would be inadmissible in proceedings; for example, when the subpoenaed information contains self-incriminating answers. Several stakeholders wanted those provisions to go further so that any information provided to the HCCC cannot be subpoenaed. However, it is not the intention of the bills to make it more difficult to conduct litigation and I believe that the provisions introduced today strike the right balance. A further way in which the complaints handling process is to be streamlined is through the removal of the requirement for a statutory declaration to be provided by a complainant before a complaint is investigated. The Special Commission of Inquiry identified the practical problems with requiring a statutory declaration and the fact that it contributes to delay.

A request by the HCCC for a statutory declaration may discourage those with poor literacy skills, or persons from particular cultural backgrounds who are reluctant to approach government agencies, from pursuing complaints. Furthermore, other watchdogs such as the Independent Commission Against Corruption and the Ombudsman do not have a statutory declaration requirement. It remains important to ensure that complainants do not provide false or misleading information when making a complaint. I have therefore written to the HCCC requesting that it review its administrative procedures so that it appropriately notifies complainants that it is an offence knowingly to provide false or misleading information to the HCCC. As suggested by the New South Wales Medical Services Committee, a drafting note specifically referring to this offence has also been included in the Health Care Complaints Act below section 9. That provision sets out the requirements for making a complaint.

The third main purpose of the bills is to make the complaints system fairer for all parties by giving proper protection to practitioners, to complainants and to the general public within this framework. Proposed section 20 (2) of the Act implements the recommendation of the Special Commission of Inquiry that the HCCC must promptly identify doctors and nurses who are the subject of complaints and the allegations against them. In addition, an ongoing obligation has been imposed on the HCCC to keep under review its assessment of a complaint. The purpose of these provisions is to respond to a key finding of Commissioner Walker, namely that the HCCC failed in many cases properly to identify and notify those against whom a complaint had been made.

Another important protection for practitioners is the creation of a new office of the Director of Proceedings within the HCCC. The director will make independent decisions on whether complaints should be prosecuted. This proposal

addresses perceptions of bias within the HCCC. This proposal was suggested by the HCCC during consultation and was circulated for comment to stakeholders, who have given it wide support. To ensure that the co-regulatory nature of the system is preserved, the Director of Proceedings will be required to consult with the relevant registration board about its views before deciding whether or not to institute disciplinary proceedings.

Section 96 of the Health Care Complaints Act will be amended to provide that complainants will be protected from liability if they make a complaint in good faith. This amendment ensures that protections which are available to persons who make protected disclosures are available to those who make a complaint to the HCCC. Proposed sections 99A and 117A of the Health Services Act will improve public protection by introducing a mandatory obligation on chief executive officers of public health organisations to report suspected unsatisfactory professional conduct to registration authorities.

Proposed section 28A of the Health Care Complaints Act will require the HCCC to use its best endeavours to notify a person identified in a hospital record as the next of kin of the outcome of an assessment decision in relation to a complaint by the HCCC in cases where a patient has died or lacks capacity. The hospital must assist the HCCC by providing the name of the person identified in the hospital record. The purpose of this provision is to address concerns that arose during the HCCC's investigation into Camden and Campbelltown hospitals because some patients and families were not notified directly of any problems identified with the health care they received.

The bills also provide for the integration of the Health Conciliation Registry with the HCCC so that all dispute resolution functions can be performed by the same body. Stakeholders have generally supported the inclusion of the proposed safeguards in the bill, which will ensure that the conciliation functions are kept independent of the HCCC's investigative function. These safeguards include the statutory recognition of the separate role of the registry, providing that the registry and conciliators are independent of the HCCC when conducting conciliations, offence provisions to prevent the unauthorised disclosure by registry staff or conciliators of information obtained as part of their duties, and giving the parliamentary joint committee a role in overseeing the operation of the registry.

I acknowledge in particular the contribution of the parliamentary Joint Committee on the Health Care Complaints Commission in its "Report into Alternative Dispute Resolution of Health Care Complaints in New South Wales" and its submission on the bills. A number of the committee's recommendations are not appropriate to implement through legislative change. Consultation will occur with the HCCC to determine whether they can be implemented administratively. Root cause analysis provisions will be introduced based on the quality assurance committee provisions of the Health Administration Act 1982 in order to protect information provided to root cause analysis teams. This will encourage practitioners to participate in root cause analysis, which is an important tool for ensuring that the causes of adverse events are properly identified.

In addition, to reduce the possibility that serious individual conduct matters are buried in the privileged process, the amendments also explicitly provide for matters that raise possible unsatisfactory professional conduct or individual performance issues to be referred to hospital management for action. Finally, amendments to schedule 5 to the Health Care Complaints Act address concerns raised by the doctors' representatives about the remedial legislation that was introduced following the first report of the Special Commission of Inquiry. As recommended by the inquiry, these changes will ensure that challenges based on oppressiveness or delay are not prevented. I note that the relevant provisions are supported by the main doctors' representatives. I commend the bills to the House.

**The Hon. ROBYN PARKER** [11.18 a.m.]: I am well aware of the purpose of the Health Legislation Amendment (Complaints) Bill and cognate bills, which implement the recommendations of the Special Commission of Inquiry into Campbelltown and Camden Hospitals and the review of the Health Care Complaints Act 1993 undertaken by the Cabinet Office. In many ways, we are disappointed that the Health Care Complaints Commission inquiry went down the path it took, because we felt that a royal commission of inquiry into the Government's operation of health matters, and the handling of complaints in particular, was necessary.

The problems are much broader than Camden and Campbelltown hospitals. Commissioner Walker's recommendations are sound. Clearly, there are systemic problems across the board in NSW Health; they are not restricted to two hospitals or one area. Commissioner Walker recommended that unsatisfactory professional conduct be refined so that only significant incidents that involve a lack of skill, judgment, or care result in investigation or disciplinary action. That will put parameters around the complaints mechanism so it is clear what the role of the Health Care Complaints Commission [HCCC] is, what the role of health care complaints are, and how serious complaints can be investigated.

Clearly, registration boards have a greater part to play. As a member of the committee that investigated the complaints concerning Camden and Campbelltown hospitals, I clearly understood that currently there is no culture within NSW Health that encourages complaints or encourages the appropriate management of complaints from individuals or groups. It was very clear that the registration boards, particularly the Nurses Registration Board, did not have responsibility for continuing professional education and assessment of professional behaviour.

That said, an important point needs to be made. The inquiry focused largely on systemic problems rather than on individuals. If the system encourages complaints, if the system encourages full disclosure, if the system is established in a way that whistleblowers have protection and support, it will be a much more effective incident-handling system. People will be encouraged to learn from mistakes and ensure that serious problems arising from mistakes are dealt with and that systems are established so they do not occur again. It should be said also that professional errors and misconduct need to be dealt with, and there needs to be a facility that looks at the individual professional misconduct or lack of ability when it comes to mistakes.

I note that the Pharmacy Board of New South Wales and the Australian Psychological Society raised concerns about assessing unsatisfactory professional conduct by reference to other practitioners. There was quite a lot of concern about

the level of training and whether a practitioner who has only just commenced practice should be held to the same standard as someone more experienced. I note that all practitioners need to meet entry-level standards in order to be registered. In his recommendations Commissioner Walker sought to give the HCCC greater flexibility in dealing with complaints.

In her discussions with our committee that was investigating complaints, Commissioner Amanda Adrian acknowledged on many occasions that her attitude to dealing with complaints was to look at systemic problems. Very clearly the Health Care Complaints Commission was not sufficiently resourced by the Government to deal with some serious complaints. Had it had the resources when the whistleblower nurses made complaints about Camden and Campbelltown hospitals, perhaps things would have been different, perhaps they would have been dealt with; but the HCCC was completely swamped when it came to trying to deal with these problems and it would seem that it did not have the capacity to deal with them at the required level. So any improvement in resourcing the HCCC is most welcome.

The other improvements that are welcome are the amendments relating to the supervision of professions such as nurses and midwives. The new objects of the HCCC emphasise that its primary role is the investigation of serious complaints. These organisations have a supporting role, and Commissioner Walker particularly praised the Medical Board for the way it handled complaints. I would like to see the Nurses Registration Board do more than just process members' applications each year and tick them off without taking responsibility in the way the Medical Board does when handling complaints. Commissioner Walker recommended that performance assessments be introduced by the nursing profession, and that should be wholeheartedly supported.

The bills also include a requirement for the HCCC to have regard to the protection of the public when exercising complaints handling and other functions. This brings it into line with the health professionals registration Acts, which have a particular public protection focus. A further purpose of the bills is to improve the complaints-handling process. It was clearly evident from our inquiries that people need to know where to make complaints, how to make complaints, and what processes to follow-up. When the HCCC investigates complaints it has to be empowered to require relevant people to provide documentation. Concerns have been raised about freedom of information, and I think the Minister addressed some of those issues in his second reading speech.

I note the Minister's comments about encouraging people with poor literacy skills and people from linguistically diverse backgrounds in order to give them an opportunity to present a complaint without having to go through a statutory declaration requirement. Once again, the Opposition has concerns about creating an independent office of the Director of Proceedings in the HCCC. With all the health legislation currently before the House—and all the rhetoric that we are reducing bureaucracy, adding efficiencies and putting more funds into front-line health—there is concern that this is inserting another layer of bureaucracy. Perhaps the director should be appointed by the Minister so he or she is independent. I note that the Director of Proceedings needs to consult with relevant registration boards about their views before deciding to implement disciplinary proceedings.

Another aspect of our inquiry was root-cause analysis. The root-cause analysis provisions will be introduced based on the quality assurance provisions in the Act, to protect the information that is provided to root-cause analysis teams. Root-cause analysis is an important tool in ensuring that the causes of adverse events are properly identified. It also creates a culture of learning and makes individuals feel part of a team to determine what went wrong, who is responsible, what procedures could be implemented in future, further ways of learning from that, and improving the system outcomes.

Other members will refer to complaints handling within the hospital environments they deal with. Substantial system breakdown in complaints handling has occurred across the board and we have a long way to go with the public health system in New South Wales. The problems are much broader than the issues investigated by the committee in relation to Camden and Campbelltown. The Minister and the Premier said over and over again that the problems there were isolated and unconnected with problems in other hospitals and other parts of the health system. Mr Walker's terms of reference were therefore extremely narrow. Even during the time of the Walker inquiry, and since, we found continuing examples of problems. We do not oppose the bill; we support the wider community having more opportunity to participate, to be consulted and to feel included. It can be difficult to formulate legislation providing for the maintenance of professional standards that are easily met without excessive red tape and the required professional protection within a system that the general public can have confidence in.

I note that the Australian Medical Association was consulted and contributed comments about the bill. It supports the suspension of any practitioner whose conduct breaches professional standards. The association was concerned about the mixture of legal representation and non-legal representation. Most practitioners would have legal representation and the association was concerned about having two different groups involved in very serious complaints, thereby complicating the situation with regard to the right to have legal support. Members in this Chamber and in another place have acknowledged the bravery of the whistleblower nurses at Camden and Campbelltown.

I wonder whether we would be in the present situation had they not risked their professional lives by making the Government tighten up complaints-handling procedures. In some cases they are finished in the medical profession. We owe them a great debt. The bill improves the regulation of the Health Care Complaints Commission, with support from the Nurses Registration Board. It provides review, assessment and discipline in a constructive way. I hope that the commission will be better resourced than it was when Amanda Adrian was appointed commissioner. Other Opposition members will contribute further on protection of whistleblowers, the Walker inquiry, operations of the HCCC, complaints-handling management, and assessment and regulation of the performance of professionals within the health care system. I look forward to their contributions.

**The Hon. Dr PETER WONG** [11.38 a.m.]: I speak to the Health Legislation Amendment (Complaints) Bill and cognate

bills as a member of the joint parliamentary Committee on the Health Care Complaints Commission and as a professional in the medical field, so I have an interest in the commission and the principal bill. The invaluable work of the Committee on the Health Care Complaints Commission obviously lies behind many of the provisions of the bill. Combined with the draft exposure process, the bill goes a long way to improve the complaints-handling processes in this State. This is very important for the citizens of New South Wales, because without a workable and practical complaints process the problems that have come to affect the health system in this State, as exemplified by the Campbelltown and Liverpool hospital crisis, are less likely to be recognised and rectified. The public should be reassured that improvements in the health care system are more likely to occur simply because of the changes introduced by the bill. That said, however, we must all continue to monitor the Health Care Complaints Commission [HCCC] and its impact on the health system to ensure that a process of reform continues to deliver real benefits to the people of New South Wales.

Although the Government has adopted many of the committee's recommendations over the years, unfortunately some equally important recommendations have not been adopted. Those recommendations should be reconsidered by the Government and, more importantly, by members of the general public. This is especially pressing because we will soon see the outcome of *Presland v Hunter Area Health Service* and, with it, the departure of yet another oversight mechanism designed to monitor this Government's lack of responsibility. As such, the public will depend more and more on the HCCC to ensure their health system improves. Therefore, I wish to bring to honourable members' attention areas that require ongoing improvement to ensure we get the levels of service we deserve.

It is regrettable, as mentioned by the honourable member for Lake Macquarie, the chairman of the Committee on the Health Care Complaints Commission, that the Health Conciliation Registry will be incorporated into the Health Care Complaints Commission. This is not something I support, nor is it likely to improve the HCCC process. The Health Conciliation Registry is designed to enable parties involved in a complaint to discuss the matter and to agree on possible options for resolution of the complaint. To achieve this it is supposed to be neutral and non-threatening and, most importantly, not part of the investigation process.

Having the conciliation process under the control of the HCCC creates the perception that it fails to meet these important aspirations. This will have a major impact upon the HCCC because many of the individuals who previously would have undergone conciliation will not do so under the proposed model. That will push extra work onto the HCCC and slow down the complaints process. That result will be contrary to the rationale for this bill. As I have explained, it is highly unlikely that giving the conciliation process to an agency with incredible powers of investigation and prosecution will achieve the results the Government expects it to, let alone preserve the separation of powers that citizens reasonably expect to be preserved by the Parliament.

Another matter requiring the urgent attention of the HCCC and the Government is that members of the Medical Board and the Medical Tribunal require more legal training. This is important because doctors who are members of those bodies generally have only medical training and that has an impact on their ability to extract the information that is required to make important decisions. A simple problem is that Medical Board members ask leading questions. While this is most likely unintentional, the outcome is often not what could be considered best practice. For example, a member might ask, "Doctor don't you think that the action you took was wrong?" That is likely to result in totally different evidence than a question such as, "Doctor, will you explain why you have taken this action?" A small amount of additional training in this regard will deliver greater efficiencies and fairness in the administration and delivery of health services. I am a member of a Federal professional review tribunal and all members are required to undergo medico-legal training either annually or bi-annually.

As mentioned in the committee's report, the lack of cultural diversity at board level should be examined. I hope that the Minister and the director-general will do that in the near future. Although I have mentioned some important concerns, the bill is generally very good. It will bring about improvement, not only to the health complaints process but also, by default, to the provision of health care in this State. Very important issues have been addressed by the bill, such as excluding members of the Medical Board from sitting on the Medical Tribunal and the Professional Standards Committee. The Committee on the Health Care Complaints Commission previously made recommendations about this issue because there were strong fears in the community that this practice led to the perception that the adjudication process was not impartial. Certainly, many practitioners believed that such impartiality existed. By adopting the committee's recommendations in this regard the Government has brought New South Wales legislation into line with the legislation in other States and, importantly, has standardised New South Wales practice for other medical practitioners such as dentists.

The New South Wales process of having parliamentary committees overseeing watchdog agencies can be useful in bringing about valuable changes. Although the public should maintain a healthy scepticism about political watchdogs watching over the public watchdogs, many will agree that at least with the Committee on the Health Care Complaints Commission we are getting that process right. That it has been a bipartisan committee is evidenced by many of the improvements that this bill seeks to introduce. I mention this to voice my respect for the work of the members of that committee both past and present and, in particular, the chairman, Mr Jeff Hunter.

I take this opportunity to thank Western Sydney general practitioner Dr Sabag and his supporters, who brought to the committee's attention inadequacies, biases and many unfair practices with regard to the HCCC. They also highlighted some inadequacies of the Medical Tribunal. The committee took notice of Dr Sabag's input, which made a significant contribution to the recommendations. Former member the Hon. Dr Brian Pezzutti has also done a great deal to assist the committee. Finally, I disagree with some comments made by the Hon. Robyn Parker about the HCCC. The Committee on the Health Care Complaints Commission is almost a non-political committee. In fact, its recommendations were unanimous.

Amanda Adrian was incorrect when she said that the Government did not provide enough resources. The resources were supposed to be provided by the HCCC and the funding was provided by the Government. The Government provided more funding than was required at the time. From the submissions received by the committee, including from the Medical Board of New South Wales, the Australian Medical Association, the medical defence organisations and many individual doctors, it is clear that almost no-one supported Ms Adrian. In fact, the majority were very critical of her and her leadership.

The Medical Board highlighted that the HCCC has a lack of medical knowledge and indicated it was willing to help, but that suggestion was not taken up. There were long delays in the investigation of the incidents at Campbelltown and Camden hospitals. I am not saying that the Government was right. In fact, I agree with the Hon. Robyn Parker—it is a systemic problem. However, as a committee that monitors and supervises the HCCC, we are aware that the long delay in delivering the funding was not the Government's fault entirely. I believe this legislation will improve the health system in New South Wales and I congratulate the Government on this bill.

**Ms SYLVIA HALE** [11.49 a.m.]: The Greens support the Health Legislation Amendment (Complaints) Bill. Proposals to standardise the definitions of professional misconduct across the professions are a commonsense and well thought-out reform. The integration of the Health Conciliation Registry into the Health Care Complaints Commission [HCCC] will not diminish the statutory independence of the body, and may help to deal with the conciliation of complaints in a more integrated fashion. Any step that gives improved institutional support and assists more parties to work towards conciliation rather than litigation is welcome.

New requirements that complaints against a medical practitioner be given in writing to both the practitioner concerned and the employer appear both fair and in keeping with current good practice and complaints policies in other professions. The Greens support the stated objectives of the bill to refocus the activities of the HCCC on the investigation of serious complaints. How this will be achieved is the challenge. One of the criticisms levelled at the HCCC has been the excessive delay in investigating claims. More powers without more funding to carry out investigations will do little or nothing to address this problem. The delays, where they occur, relate primarily to inadequate resourcing. Any complaints and investigation process is reliant on having sufficient staffing and resourcing to be effective. Legislative power to access information and people is important, but adequate staffing, training and administrative support are vital.

Against this backdrop, increasing the powers of the HCCC to investigate allegations of serious misconduct sounds like a good idea, but powers alone will not be sufficient. The Greens support the new Director of Prosecutions in the HCCC; however, to be effective it too will need to be funded adequately. What we see in these three bills is the culmination of the debacle at Camden and Campbelltown hospitals. We have all heard appalling tales of maltreatment at Camden and Campbelltown—whether from hyperventilated media reports or from letters from constituents. There is no doubt that people died unnecessarily and in tragic circumstances due to problems at these two hospitals. The Greens' support and sympathy for the families of those people is complete and unconditional.

One of the Opposition speakers in the Legislative Assembly suggested that central to the problems at Camden and Campbelltown hospitals was a fundamentally flawed Health Care Complaints Commission. The Greens dispute this. Pointing the finger of blame at the HCCC for systemic flaws in the medical system is a game that the Government, the Opposition, and the radio shock jocks have all played. It is a cheap and easy game to play, but it fails to get to the real source of the problem: underfunding of our hospitals. Vast sums are spent on flash buildings and the latest technology, but all this means nothing if we fail to provide sufficient resources for the people who use those facilities. It is doctors, nurses, cleaners and technicians that our hospitals are crying out for. What the health system desperately needs is more staff.

The HCCC under the leadership of Amanda Adrian had a policy of accepting and sharing responsibility for problems. It is untrue to assert, as the Opposition and the shock jocks have, that responsibility was not accepted. The approach of the HCCC not to victimise and attack individuals but to treat the problem as a system breakdown is a well accepted and respected management approach. That is not to say there are not problem individuals who weaken the chain, but attacking and demonising individuals is never an effective method of fixing complex system-wide problems. This is not what senior managers and Ministers like to hear. It is far easier to sack someone than it is to examine why and how problems evolved. But it is only by addressing the underlying problem of insufficient staffing that our hospitals system will be fixed.

Due to the courage of the nurses who raised the alarm, and the herculean effort by staff at Camden and Campbelltown hospitals since, problems were identified and operational solutions devised. Unfortunately, they did this in a climate of hysteria and blame shifting. This is precisely what the HCCC sought to avoid. I was talking to a worker in this Parliament only last week about the exemplary medical service a family member had received recently when giving birth at Camden hospital. The staff at the birthing centre were friendly, helpful and highly professional in every possible way. It is important to tell the stories of the hundreds of thousands of people who receive exemplary medical care from our public hospitals every year. Staff working in our hospitals must be congratulated on the extraordinary job they have done, and continue to do, under extreme pressure.

But that is not to gloss over the problems. Unfortunately, this bill will do almost nothing to meaningfully tackle the systemic and underlying problems afflicting the health system. It will fail to achieve its stated goals of better protecting the public against a flawed medical system unless the HCCC is provided with sufficient funding. More legislative power alone will not fix the current woes of the health system. This bill is no silver bullet—much though the Government wishes it were. Commissioner Walker did not find the HCCC fundamentally flawed or lacking teeth; he found its statutory powers generally sufficient. But the Government has to be seen to be doing something, and increasing the powers of the HCCC is a far easier and less costly option than actually addressing the underlying problems: insufficient staffing and staff support. As noted by other speakers, consumer stakeholders and the medical profession have been broadly supportive of the

amendments in these three bills. The Greens do not think that increased powers of the HCCC will fix the problems in the health system. These are far more systemic. Nevertheless, the Greens support the bill.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [11.56 a.m.]: These bills are largely the result of inquiries into Camden and Campbelltown hospitals. Those inquiries were the result of allegations made, successfully and persistently, by the so-called whistleblower nurses, Nola Fraser and her colleagues. It might be noted that those nurses are still not working and are still, quite frankly, not likely to be working within the New South Wales health system. The degree of rupture of their trust is basically unfixable. They have paid with their careers and, in some cases, with their marriages, because of the stress. It is a poor show when a person such as Nola Fraser runs a beauty parlour rather than works as the competent nurse she is.

The Government was not very keen to conduct inquiries to the extent that it has. Allegations were made to the Independent Commission Against Corruption about the conversation between the whistleblower nurses and the Minister, and the Health Care Complaints Commission [HCCC] inquiry was ongoing. I believe that the Walker inquiry would not have happened had the Government not been faced with my motion to conduct an inquiry through a parliamentary committee. I told the Government that I had the numbers for a parliamentary inquiry into the situation at Camden and Campbelltown hospitals but that if the Government produced a judicial inquiry—which of course would have more time and resources available to it—I would not ask for a select committee inquiry. The Government, to its credit—if that is the word—conducted the Walker inquiry. That inquiry had quite limited terms of reference, which I believe was an error, but Walker said he was unable to give more time to the inquiry than he did. Perhaps that is true.

Since the inquiry a number of people in different hospitals have said to me, "We are glad the Camden and Campbelltown inquiry did not happen in our hospital, because we have all the same systemic problems that they have". General Purpose Standing Committee No. 2 also had an inquiry into health complaints and, again, that was a compromise between the Opposition, which wanted a very extensive inquiry, and the Government, which wanted no inquiry. I basically got terms of reference that I thought would be realistic for that committee.

It is a bit churlish that the Minister did not refer in his second reading speech to the work of the committee and its report. Suffice it to say that the efforts of the whistleblower nurses, their personal selflessness and the political and media consequences of their persistence and courage have resulted in the health system being thrown into the public spotlight. These bills and the changes within the health system are part of that process. It is interesting that the Government, when put under pressure, sacks somebody and introduces legislation.

**Pursuant to sessional orders business interrupted.**

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NSW Legislative Council Hansard, 17 November 2004, Pages 2 - (article 10)

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