

Public Health Amendment (Vaccination of Children Attending Child Care Facilities) Bill 2017

Second Reading

The Hon. WALT SECORD (10:20): I move: That this bill be now read a second time.

As Labor's shadow Minister for Health and Deputy Leader of the Opposition, I am pleased to introduce the Public Health Amendment (Vaccination of Children Attending Child Care Facilities) Bill 2017. The bill is for an Act to amend the Public Health Act 2010 to prevent unvaccinated children being enrolled at childcare facilities if the only reason that they are unvaccinated is a parent's personal beliefs, which are inaccurately described as "conscientious beliefs". For the purposes of the bill a childcare centre is a childcare day centre, a family or home day care environment or a preschool. To be very clear, this bill will not affect exemptions for children with genuine medical contraindications certified by a medical practitioner.

The Hon. WALT SECORD: Indeed, the purpose of the bill is to protect those children who legitimately cannot be vaccinated by encouraging healthy children to be vaccinated. Of course, as soon as I say that, I must note that it is not the healthy children of New South Wales we need to encourage—it is their ill-informed and ill-advised parents, and it is not encouragement that we need to give on medical or scientific grounds. A parent's refusal to vaccinate their child is not based on science or medicine; it is based on individual belief. I encourage members to be clear on that distinction as we debate this bill. The bill only affects parents who, due to their personal beliefs and opinions, deny a proven medical treatment that protects both their children and other children from preventable serious illnesses. As we talk about individual choices and parents' rights, let us keep that specific factual context in mind.

The bill is necessary because of a loophole in the existing legislation, created by the previous Minister for Health. It is now necessary to ban the setting up of specialist anti-vaccination childcare centres in New South Wales. Labor's bill also makes it an offence for a principal or operator to enrol a child at a childcare facility or at home-based child care without a vaccination certificate or a medical contraindication certificate. The maximum penalty for a principal or operator will be \$5,500. This legislation fixes and builds on the work of the Public Health Amendment (Vaccination of Children Attending Child Care Facilities) Act 2013. I supported that legislation in June 2013, but at that time I expressed my concerns about the so-called "conscientious exemption". It turns out my concerns were well founded as this loophole was set to be significantly exploited.

To give context, Australia, including New South Wales, clearly has a vaccination crisis. We now have preventable diseases such as measles, whooping cough, tetanus and tuberculosis. Only yesterday, NSW Health reported another measles outbreak in Western Sydney. NSW Health Director of the Communicable Disease Branch, Dr Vicky Sheppeard, said that measles was the most contagious disease known. A person can catch measles by entering a room half an hour after an infected person has been there and they can still catch the infection. This morning, we learn that another six people have been infected, including three children. NSW Health confirm that the victims spent time at Westmead Children's Hospital. This brings the total number of people with measles in New South Wales for 2017 to 19, according to official notifications.

The March edition of the Medical Journal of Australia reported that approximately 37,000 conscientious objectors are registered nationally. That means there are about 13,000 in New South Wales. Now we learn that anti-vaccination groups are planning to further exploit this loophole, with two separate reports that groups are planning to set up a so-called "vaccine-free day care" centre. A

mother on Sydney's northern beaches has called for expressions of interest. In September 2015, a Lismore mother announced she wanted to set up a similar venture. Both have attracted national attention.

In recent months, reports show that patients are presenting to New South Wales hospitals with vaccine-preventable diseases in increasing numbers. This is, of course, no coincidence. The statistical linkage between low-vaccination rate areas of Australia and the incidence of vaccine-preventable infections is well established. Children are getting serious illnesses that are entirely preventable as a result of parents failing to properly vaccinate. That alone would, in my view, justify closing the so-called conscientious objector loophole. Added to the argument is a rational, objective view about what the loophole truly supports.

The fact is that this is not conscientious objection. The term "conscientious objection" comes from the anti-conscription movements of the early twentieth century, and the anti-vaxxer movement has stolen the term in an attempt to lend moral credibility to vaccine refusal. That comparison is not valid, nor does it deserve any credibility. Vaccine refusal supports personal opinion—not the opinion of the child, but of the parent, who is not an expert. There is no scientific or medical debate on this: That is settled. The jury is in. Vaccinations work and they save lives.

The greatest improvements to world public health are due to sterilisation of equipment, washing hands, the provision of clean water and yes, immunisations. No great public debate takes place in our churches, mosques, temples, synagogues, or other places of worship. No great debate takes place amongst our ethicists or philosophers. Vaccine refusal is not a scientific, moral or ethical resistance. It is an egregious elevation of personal choice. The fact of the present situation is that children are getting ill—unnecessarily ill, seriously ill and sometimes fatally ill. It is due to deference to personal choice. That is wrong.

I am a parent and my partner has three young grandsons. I am a big defender of personal choice, but my defence cannot run as far as the right to refuse to vaccinate your child. Personal choices that needlessly deny medical treatment to children have a name—child neglect. I will say that again: To refuse to vaccinate your child or to subject someone's child to your unvaccinated child is child neglect. We do not give parents personal choices to not educate their children, because this would be neglect. We do not give parents personal choices to not adequately house or clothe their children, because this would be neglect. We do not give parents personal choices to not adequately feed and nourish their children, because this would be neglect. Why then are vaccinations any different? To those who will argue that this is the State interfering in parental choices, I will be very clear: Yes, we are interfering in parental choices.

A State does this in various ways in a civil society on a daily basis. We do not opt-in to seatbelt laws, because they save lives. And so on and so forth. Why should vaccination refusal be so privileged by this Parliament? Why would our State fine the parent who does not have their child in the right booster seat but respect the one who skips booster shots that vaccinate against polio, tetanus and whooping cough? The fact is that the anti-vaxxer loophole deeply privileges personal opinion in the face of all medical, scientific and policy evidence. It never should have been opened by the previous Minister for Health, and it certainly needs to be closed. It is in everyone's interest to increase vaccination rates.

I do not want to revisit the evidence for that statement in detail, because I do not wish to add to the perception that there is any debate about it from any evidence-based framework.

That is settled. Vaccinations have saved millions, probably billions, of lives in the developed and developing world. That is settled. This is why mothers in Africa and the Indian subcontinent line up for hours to vaccinate their children, yet on the northern beaches of Sydney and in parts of the North Coast, they are resisting. Vaccination rates in northern New South Wales, in some parts of the State's east and in the northern beaches have slipped to unacceptably dangerous levels.

In 2014-15 the Byron Shire rate was 61 per cent, the Mullumbimby rate was 46.7 per cent, and Murwillumbah rate was 76 per cent. These are at dangerous levels. Across the northern New South Wales local health district the vaccination rates for children under the age of two is just 84.9 per cent. That is the worst local health district in the State.

Just yesterday I read about a measles outbreak in Romania where the national vaccination rate is at 86 per cent. Romania has seen nearly 2,000 cases of measles, including 17 children who have died since February 2016, the World Health Organization has reported. The decline in vaccinations in Romania has been attributed to the anti-vaccination movement in Romania. Romania now has Europe's highest measles infection rates. In contrast, there is some good news in New South Wales. Parts of Wollongong have the highest vaccination rates in New South Wales. Woonona, Woonona East and Russell Vale have the second-highest vaccination rates in Australia, second only to the Goulburn Valley in Victoria.

In Australia, we need to have a herd immunity rate of about 95 per cent so that we can provide a form of indirect protection from infectious disease that occurs when a large percentage of a population has become immune, and sadly, as these vaccination rates drop, we are seeing these diseases in New South Wales again. Just last month it was reported that for the first time in decades a tetanus case had emerged in a seven-year-old girl in northern New South Wales—that is truly terrifying.

How could this House accept that New South Wales vaccination rates are lower than those in developing countries such as Rwanda, Eritrea and Bangladesh, which have vaccination rates of between 93 and 99 per cent? How can we continue to accept that parents in an affluent and fortunate country such as Australia would choose not to vaccinate their children? We have to find ways to increase vaccination rates. The results of the anti-vax movement now show us it is not only open to us but incumbent upon this Parliament to plug choice-based loopholes. Vaccinations are the only way to protect against serious diseases like polio, mumps, whooping cough, meningococcal, diphtheria and tetanus.

No-one has the right to infect someone else's child, as has been proposed in a number of invitations on social media forums to set up "pox parties". To fail to vaccinate your child is simply irresponsible; it is neglect. It is for this reason that the New South Wales Labor Party has supported Federal Government measures like "No jab, no pay" and the stand of the Prime Minister to drive up vaccination rates. I was asked yesterday on ABC Illawarra by broadcaster Nick Rheinberger if I supported Prime Minister Malcolm Turnbull's position on vaccinations. I said yes, without hesitation. I am 100 per cent on board. I am in total agreement with him and Labor leader Bill Shorten.

In fact, I would support even further and tougher measures on vaccinations at both the State and Federal levels. It is for this reason that we propose New South Wales taking the lead on this issue. This legislation before us will give New South Wales the toughest anti-vaccination laws in Australia. We make no apologies for taking these tough steps to protect children and the overall community.

I would like to take this opportunity to appeal to New South Wales Premier Gladys Berejiklian and Minister for Health Brad Hazzard to put aside partisan politics and provide their bipartisan support to

this sensible legislation. On the weekend, the Premier was asked at a press conference of her views on this bill and she was reluctant to give her in-principle support. Former health Minister Jillian Skinner refused to toughen the laws, but we have a unique opportunity before us: we can protect a whole generation of children.

I now will briefly address specifics of the bill. Clause 2 states that the bill will commence on the date of assent of the proposed Act. Clause 3 amends the Public Health Act 2010 with the effect that the principal of a childcare facility must not enrol, or permit to be enrolled, an unvaccinated child at the facility if the only reason provided for failure to vaccinate the child is that the parent of the child has a conscientious belief that the child should not be vaccinated against specified vaccine-preventable diseases. The proposed amendments also make it an offence for the principal of a childcare facility to enrol a child at the facility if the principal has not been provided with a vaccination certificate or a medical contraindication certificate. Breaches of this requirement will result in a penalty of 50 penalty units. That is currently set at \$5,500.

Furthermore, under the legislation, a medical contraindication certificate means a certificate in the approved form by an authorised practitioner certifying that a specified child should have an exemption for one or more vaccine for specified vaccine-preventable diseases due to a medical contraindication to vaccination. I would not dispute the right or the need to have exemptions for the rare cases of children who cannot be safely vaccinated on legitimate, documented and proven medical grounds. I refer here to genuine medical risks assessed by practising general practitioners—not those placed on the internet by people with no medical qualifications or quacks, like the American David "Avocado" Wolfe who visited Australia in February. I make no apologies for calling on the State Government to intervene to stop a talk by him at the new International Convention Centre Sydney, paid for by the New South Wales taxpayers. I thought it was irresponsible for the Berejiklian Government to allow a taxpayer-funded facility to be used as a platform for him. I also note that the member for Summer Hill, Jo Haylen, led an effort to remove him from a council facility and it was successful.

At the end of the day, this bill comes down to whether personal opinion should trump evidence in a matter of public health policy. We know, as legislators, that it cannot. As I have said on many occasions, I am all for listening to other views, but public health policy is not a matter of opinion, philosophy or religion. Public health policy is a matter of evidence. There is no other way to do it. The evidence is in and the jury has reached its conclusion. It is clear. It is settled.

Despite endless revisiting, re-publication and promotion of that evidence, a fringe just refuses to accept it. Is that their right? Yes, it is. But, it is not their right to think that it is fine to drive after 10 schoolers or to refuse to wear seat belts or to drive excessively in a school zone—if they act on those thoughts, the law will intervene. Why? To protect everyone else, including our children. As I have said, we would not privilege the views of a person who argued against drink driving laws, speed restrictions in school zones, or seat belt laws due to personal choice, so why should they apply to vaccinations?

I would like to close by referring to a recent article written by two American paediatricians—one a mother of three—based on their experiences at Miami Children's Hospital, Florida. In a moving piece by Dr Phoebe Danziger and Dr Rebekah Diamond, who wrote of their great frustration in treating:

...a purposefully un-immunized child for a serious brain infection ... requiring weeks of hospitalization with intravenous antibiotics—and then watch his mother continue to refuse vaccines for him or his siblings, and we can't do anything about it.

They continue:

There are many ethically grey areas of medicine, but this is not one ... By continuing to allow exceptions, we are fuelling the misconception that vaccinations are an option, a choice, a subjective topic ... when all of the data proves they are not. Enacting a policy that is consistent with the science would provide clarity for the parents—the majority of whom are loving caretakers trying to do the right thing.

They conclude:

There is simply no reason vaccinations should be treated differently than any other form of medical care, and they must be protected within the same framework that has been created for child protection and against medical neglect.

As a legislator, I can only agree. In almost every question this House faces where parental choice comes up against children's rights, we defer to the rights of the child. This is no different. If vaccination refusal is viewed as a right of parents then it is one that directly conflicts with the right of a child to be free of preventable, serious, and possibly fatal illnesses. It is time to treat vaccination not as a choice of parents but as the right of children. This bill takes a small but significant step in upholding that right. I thank the members for their consideration and commend the bill to the House.