HANSARD

NEW SOUTH WALES

PUBLIC HEALTH AMENDMENT (REVIEW) BILL 2017

(No Jab No Play 2017)

10 August 2017 – 13 September 2017

Bill Timeline

Legislative Assembly	
Initially introduced in the Legislative Assembly	
Introduced by:	**Hazzard, Brad**
Notice of Motion:	**Wed 9 Aug 2017**
Introduced:	**Thu 10 Aug 2017**
First Reading:	**Thu 10 Aug 2017**
2R Speech:	**Thu 10 Aug 2017**
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Legislative Council	
Member with Carriage:	**Blair, Niall**
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LEGISLATIVE ASSEMBLY

Thursday, 10 August 2017

Bills

PUBLIC HEALTH AMENDMENT (REVIEW) BILL 2017

First Reading

Bill introduced on motion by Mr Brad Hazzard, read a first time and printed.

Second Reading

Mr BRAD HAZZARD (Wakehurst—Minister for Health, and Minister for Medical Research) (10:13): I move:

That this bill be now read a second time.

I am pleased to bring before the House the Public Health Amendment (Review) Bill 2017. The bill seeks to amend the Public Health Act 2010 following a statutory review of that Act and subsequent developments in public health since that review. The Public Health Act passed Parliament in 2010 and aims to protect and promote public health and control the risks to public health. The Act deals with a range of public health matters such as powers during a public health emergency, notification of diseases and conditions to the health secretary, vaccination enrolment requirements in childcare facilities and primary schools, and the regulation of a number of areas that have the potential to affect public health, such as drinking water, skin penetration and public swimming pools.

In 2016, a statutory review of the Public Health Act was undertaken by the Ministry of Health to determine whether the objectives of the Act remain valid and whether the provisions of the Act are appropriate for securing those objectives. As part of the review, the ministry released a public discussion paper to seek submissions from stakeholders and members of the public. More than 200 submissions on the discussion paper were received from members of the public and from stakeholder organisations. I thank members of the public and those organisations for their thoughtful contributions to the review of the Public Health Act, which were considered in preparing the final report on the review.

The report on the review was tabled in Parliament in November 2016. The report found that, overall, the objectives of the Act remain valid, but recommended a new objective be added relating to the monitoring of diseases and conditions. In addition, the report recommended a range of amendments to ensure that the Act can best protect public health. The bill follows on from the review of the Act and subsequent developments in relation to public health.

I turn first to the area of vaccination. Vaccination is one of the cornerstones of public health. It is a safe, cost-effective means of effectively preventing individuals from catching and suffering from the once common and fatal illnesses that wreaked havoc and misery on the community. Measles, tetanus, polio and diphtheria are just some of the diseases that once caused fear, pain, suffering and death but which are now, thankfully, largely controlled in Australia due to the success of vaccination. However, not everyone can be safely vaccinated, and vaccines are not always fully effective. Young babies cannot be fully protected by vaccination and some children and adults cannot be vaccinated for medical reasons. That is why it is the responsibility of all of us who do not have a medical contraindication to be vaccinated and to ensure our children are vaccinated.

If people who can be safely vaccinated are, we provide a greater level of protection to those who cannot. The higher the rates of vaccination amongst those who can be vaccinated the lower the risk of infection to those who cannot be safely vaccinated. Thankfully, most members of the community fully support vaccination, as evidenced by more than 93 per cent of New South Wales children registered as being fully vaccinated. However, the success of vaccination can result in some people becoming complacent about vaccination. More disturbingly, there are small pockets in the community who not only do not support vaccination but also peddle lies and misinformation about the safety and effectiveness of vaccination.

We cannot allow the community to become complacent and we must fight back against the untruths told about vaccination. To properly protect and promote public health we need to maintain the highest level of immunisation possible within the community, and an important place to start is vaccination of children in childcare facilities. Childcare facilities can offer a breeding ground for the spread of disease due to the close proximity of children in a confined space. Herd immunity is especially important in that environment. Increasing the proportion of children in child care who are vaccinated will help to protect those who cannot be safely vaccinated or are not yet fully vaccinated. As such, this bill will amend the Public Health Act to require a principal of a childcare facility to prevent a child who is not vaccinated solely due to the objections of their parents from being enrolled in child care.

Under the changes contained in section 87, a childcare facility will be able to enrol a child only if the facility is provided with evidence that the child is age appropriately vaccinated, is on an approved catch-up schedule, or has a medical contraindication to vaccination. It will be an offence for a principal not to comply. The report on the statutory review of the Act recommended strengthening existing childcare vaccination requirements, although exclusion of unvaccinated children from child care was not included in the recommendations. However, the New South Wales Government has considered the issues and has heard community calls, and indeed calls from the Prime Minister, to increase vaccination rates in child care.

This Government supports the need to increase the rates of vaccination, and the need to protect and to promote public health is the basis for these changes. Some may argue this change is unfair because it disadvantages children as a result of the decisions of their parents. The Government does recognise the importance of early childhood education. However, what is unfair is parents choosing to place their own child, as well as other children and other members of the community, at risk of serious harm or even death by not vaccinating their children. Parents who have chosen not to vaccinate their child or children will have a decision to make—to listen to all credible medical and public health experts and to protect their own child or children and others by vaccinating the child or children or ignoring the experts and science, leaving their child or children unvaccinated at the risk of life-threatening infections and not being able to enrol their child or children at child care.

I urge parents not to make the latter choice. Vaccination is a success story of the modern era. We thankfully live in an age when some diseases can be prevented before they begin. All children should have the advantages of vaccination and those who can be vaccinated should be to protect themselves and others. While it will no longer be acceptable for parents who choose not to vaccinate to enrol their child in child care and to place others at risk, the Government does recognise that there may be some groups in the community who have

difficulties producing vaccination records at enrolment. These groups include children in emergency out-of-home care or when a child has been evacuated during a state of emergency. The changes are not intended to affect these classes of children.

However, the bill amends the Public Health Regulation to exempt two additional groups from the initial vaccination enrolment requirements. Those groups are Aboriginal and Torres Strait Islander children and children in out-of-home care. The groups in the Public Health Regulation who will be exempted from the vaccination enrolment requirements are not groups the Ministry expects to be unvaccinated. In fact, some, such as Aboriginal and Torres Strait Islander children, have higher rates of vaccination than non-Aboriginal and Torres Strait Islander children. However, parents and guardians of these children may find it more difficult to produce records on enrolment and therefore their children may be disproportionately negatively affected by the changes.

The regulation will require the vaccination records for these groups of children to be provided within 12 weeks of enrolment. This important change will be supported by additional amendments to the provisions of the Public Health Act relating to vaccination as recommended by the report on the statutory review. Currently under the Act, principals of primary schools and childcare facilities must collect information about a child's vaccination status. Where a child at primary school or child care has a vaccine-preventable disease, a public health officer can issue an exclusion order. An exclusion order excludes a child with a disease or any unvaccinated child at a primary school or child care during the outbreak period.

The bill extends these provisions to high schools and allows an exclusion order to be issued when an unvaccinated child has come into contact with a person with a vaccine-preventable disease anywhere regardless of whether or not there is an outbreak at the particular school or childcare facility the child attends. Despite the success of vaccination, outbreaks of vaccine-preventable disease do occur from time to time. However, the changes in the bill will assist in the better management of such outbreaks and, by preventing unvaccinated children who have no medical contraindication to vaccination from being enrolled in child care, assist in protecting and promoting public health.

I turn now to the other changes in the bill, which as noted earlier, mostly follow on from the recommendations contained in the report on the Review of the Public Health Act. The bill amends section 3 of the Act, which is the objects clause of the legislation. The objects recognise the importance of protecting and promoting public health and controlling risks to public health, and recognise the important role local government plays in public health. As found by the report, these objectives are appropriate but there is no express objective relating to the monitoring of diseases and conditions. This is despite the fact that the Public Health Act requires a range of conditions and diseases to be notified to the Secretary of Health by medical practitioners, hospitals and laboratories.

Notification allows NSW Health to monitor the incidence and impact of diseases and conditions and to take appropriate public health action if required. Accordingly, and in line with the report's recommendations, the bill amends section 3 to recognise monitoring the diseases and conditions affecting public health as an objective of the Act. In respect of notification of diseases and conditions, the bill amends sections 54, 55 and 83 to allow the Secretary of Health to obtain further information about a person with a scheduled medical condition or notifiable disease from the patient's treating medical practitioner. These changes will ensure that where the treating medical practitioner is not the person who made the notification, relevant information about the patient's medical condition and risk factors can be obtained by the Secretary of Health.

The DEPUTY SPEAKER: I welcome to the public gallery student leaders from the electorate of Hornsby, guests of the Minister for Innovation and Better Regulation and member for Hornsby.

Mr BRAD HAZZARD: I add my welcome to all the school leaders from the schools in Hornsby. I wish them well in their endeavours as leaders and in everything they do at school. Everything they learn at school will help them at some stage in life, so they should study well. They should also make sure they talk to their parents and get immunised. The fact that they have been welcomed to the Parliament will be forever in the *Hansard* because they are here during the second reading speech relating to public health. They will always be able to say, "I was in Parliament that day." I am sure it is very exciting for them.

The Public Health Amendment (Review) Bill includes a new section 130A. The new section will ensure that information about notifications of diseases and conditions received by the Secretary of Health cannot be disclosed under subpoena or given in evidence except in relation to proceedings under the Public Health Act. The new provision is intended to ensure that the public can trust that the sensitive information obtained and held by the Secretary of Health will not be unduly disclosed. The change will help to facilitate the public and clinicians in providing accurate and complete information to the Secretary of Health.

I turn now to the amendments in sections 62, 63, 64 and 68 in relation to public health orders. Currently under the Act, if a person with a certain high-risk disease, such as Ebola, Middle East respiratory syndrome [MERS], severe acute respiratory syndrome [SARS], avian influenza in humans or typhoid, is acting in a way that places the public at risk, a public health order can be made. A public health order can require certain things, such as requiring the person to refrain from certain conduct, to be detained and/or treated.

However, a public health order cannot be made in respect of a person who has come into contact with a person with a high-risk disease but has not yet developed the disease. A contact may be infected and then can be infectious prior to developing symptoms of the disease. This means that if a contact, who may not be displaying any symptoms, refuses to undertake appropriate risk mitigation measures, such as not entering into public places, they may place other members of the public at risk of infection.

Management of contacts of persons with high-risk diseases can be central to the effective management of an outbreak of a disease and prevent ongoing transmission, as demonstrated in the 2003 SARS outbreak overseas. Generally, a contact would agree to risk mitigation measures. However, the report found that the public health order provisions should be extended to contacts with high-risk diseases who are potentially placing the public—all of us—at risk. The recommendation was accepted by the Government and the bill amends division 4 of part 4 of the Act to allow a public health order to be made in respect to the contact of a person with a relevant condition, being viral haemorrhagic fever, MERS, SARS, avian influenza in humans or typhoid. An order can only be made if the authorised medical practitioner is satisfied that the person has been exposed to the relevant condition and the person is at risk of developing the condition and the person is behaving in a way that may be a risk to public health.

While public health orders for contacts are a necessary tool to protect public health in rare cases, they do pose restrictions on a person's liberty. Therefore, a number of safeguards have been built into the bill. A public health order in respect of a contact with a person with a relevant disease must be revoked at the latest at the end of the incubation period for the relevant disease. For example, a public health order for a contact of a person with SARS can last a maximum period of 10 days, while the maximum duration of an order in respect of a contact of a person with viral haemorrhagic fever such as Ebola is 21 days. Further, if the authorised medical practitioner makes an order, the order will have to be reviewed and confirmed by the Civil and Administrative Tribunal of New South Wales.

Public health often involves balancing the rights of the individual and the public health needs of the community. The provisions in this bill strike an appropriate balance in relation to a person who has been exposed to a serious infectious disease and the safety of the public. The bill amends section 106, which relates to public health inquiries conducted by the Health secretary. The bill will allow the secretary, following a public health inquiry, to order the person that has caused or contributed to a risk to public health to notify persons placed at risk. This amendment will assist in ensuring members of the public are aware of a public health risk and measures to take to mitigate the risk. The bill also amends section 106 to ensure that a search warrant can be applied for the purpose of a public health inquiry.

I turn now to the changes in the bill relating to section 56. Section 56 provides for additional privacy protections for a person with a category 5 condition. There are only two category 5 conditions: human immunodeficiency virus [HIV] and acquired immune deficiency syndrome. Section 56 requires HIV notifications by medical practitioners or pathology laboratories to the secretary to be given in a de-identified format. This is different from all other diseases, where notifications are given in an identified format. It prohibits, outside of a hospital, a person's name from being included on an HIV pathology test request form except with consent and it creates an offence for disclosing a person's HIV status, except in limited circumstances, including where the disclosure is made to a person involved in the provision of care, treatment or counselling to the person concerned so long as the information is relevant to the provision of such care, treatment or counselling.

Section 56 is based on section 17 of the old Public Health Act 1991 and reflects the historic circumstances of HIV. Historically, there was considerable and regrettable discrimination against homosexual men and people with HIV, and HIV infection was a death sentence. As a result, additional confidentiality protections were included in the former Public Health Act 1991 and these were carried over to the 2010 Act. Thankfully, times have changed. HIV is now a manageable condition; however, section 56 can create a barrier to testing a person for HIV and the management of patients with HIV. The bill therefore seeks to update and modernise section 56.

The bill removes the requirement that a patient consents to their name being included in a test request form. This will reduce a barrier to testing and bring HIV testing into line with testing for other conditions. In addition, the bill amends section 56 to make clear that an exemption to the non-disclosure requirement is where HIV information is disclosed for the purpose of care, treatment or counselling, regardless of whether or not the care is being provided specifically in regard to HIV. As HIV is a chronic illness, clinicians need to be aware of a person's HIV status when treating a patient for a condition even if it appears completely unrelated to their HIV

infection. However, the use and disclosure of a person's HIV status, as with any other health information, will be limited by the privacy principles set out in the Health Records and Information Privacy Act.

No changes are being made to the requirement that HIV notifications are to be in a de-identified format. The report noted that the ministry supported, in principle, named notifications as it would likely lead to improved epidemiological information and better capacity to support people with HIV. However, many stakeholders were not yet comfortable with moving to named notifications due to the unfortunate stigma that persons with HIV can still experience and concerns that named notifications may deter people from being tested for HIV. The report did not recommend any changes in respect of HIV notifications but noted that the Ministry of Health would continue to work with stakeholders on this issue.

The bill also updates and modernises section 79. The bill removes the current requirement on persons with a sexually transmitted infection to notify their sexual partners of their STI status and replaces it with a requirement for persons with an STI to take reasonable precautions against the spread of the STI. The report found that there is no evidence that section 79 is effective at preventing the spread of STIs. The report found that section 79 is inconsistent with public health messages, which focus on safe sex and the need for persons with STIs such as HIV to be on treatment and can discourage people from getting tested for STIs.

Section 79 is also out of alignment with other States and Territories, which do not have a requirement that a person with an STI notify their sexual partner. The bill therefore removes the notice requirement in section 79 and replaces it with a provision requiring a person with an STI to take reasonable precautions against the spread of the infection. Reasonable precautions would generally include the use of a condom. In addition, in respect of HIV, recent evidence shows that having an undetectable viral load as a result of being on treatment can prevent the risk of transmission of HIV. The new section 79 will better align the public health messages about safe sex and the importance of people being tested and treated for STIs.

Business of the House

SUSPENSION OF STANDING AND SESSIONAL ORDERS

Order of Business

Mr BRAD HAZZARD: I move:

That standing and sessional orders be suspended to provide for the postponement of General Business until the conclusion of the Minister's second reading speech on the Public Health Amendment (Review) Bill and the consideration of the amendments to the Environmental Planning and Assessment and Electoral Legislation Amendment (Planning Panels and Enforcement) Bill proposed by the Legislative Council.

Motion agreed to.

Bills

PUBLIC HEALTH AMENDMENT (REVIEW) BILL 2017

Second Reading

Debate resumed from an earlier hour.

Mr BRAD HAZZARD (Wakehurst—Minister for Health, and Minister for Medical Research) (10:39): I turn now to the provisions of the bill relating to environmental health premises. Environmental health premises contain a public swimming pool or spa pool, or premises containing a "regulated system", which is a system such as a water-cooling system that is at risk of spreading Legionella bacteria, or premises where skin penetration is conducted. Environmental health premises all carry a risk of spreading serious infectious diseases. Therefore, the Act requires occupiers to comply with appropriate standards to reduce the risks of infection. These standards are set out in the Public Health Regulation.

The bill makes a number of minor amendments to these provisions. It clarifies that public swimming pools include pools on private residential premises that are used for a commercial purpose such as commercial backyard learn-to-swim pools, splash parks, and interactive foundations; it clarifies that where certain regulated systems are installed in a multi-tenanted building the owners corporation is the occupier; and it brings procedures that penetrate a mucous membrane, such as a tongue, within the definition of a skin penetration procedure.

The bill also includes a new section 39A, which will make it an offence for a person other than a medical practitioner, or other person prescribed by the regulations, to perform eyeball tattooing. While the report on the review did not recommend prohibiting eyeball tattooing, it is an extreme form of skin penetration that carries risks over and above those of infection control. Eyeball tattooing can lead to serious damage of the eye and even blindness. Thankfully, eyeball tattooing has not become common in New South Wales. I cannot understand why anybody in their right mind would want to have eyeball tattooing. While I have been advised of a small number

of legitimate medical reasons that eyeball tattooing may be carried out, the Government is preventing unqualified persons from performing eyeball tattooing.

The bill also makes changes in relation to suppliers of drinking water. Currently, section 25 of the Act requires suppliers of drinking water to establish and adhere to a quality assurance program. However, there is no penalty for non-compliance. The report found that a lack of penalty can impede compliance with suppliers establishing a quality assurance program. As such, the bill amends section 25 to include a penalty for non-compliance. In addition, and in line with the recommendations of the review, the bill also amends section 4 to recognise that local governments have a responsibility to regulate private water suppliers in line with their role in regulating environmental health premises. I turn to the amendments in the bill relating to registers under the Act. Minor changes are also made to sections 97 and 98 in respect of public health and disease registers. The bill clarifies that the requirements in these sections apply only to a public health and disease register established under sections 97 and 98 and not to any other registers that may be created under the Act. In addition, regulations will be able to be made setting out additional purposes for which a public health and disease register can be created.

The bill also removes the provisions in the Act relating to the Pap test register. The Pap test register has been an important register maintained by the Cancer Institute on behalf of the Health secretary and has assisted thousands of women in remembering to undergo a Pap test, which can detect early signs of cervical cancer. Each State and Territory runs a similar register. However, the Commonwealth has moved to established a national cancer screening register, which will replace the State and Territory Pap test registers. A national register has benefits as it will apply to cancers other than cervical cancer and can assist in ensuring that women who move interstate are not lost to follow-up appointments. Therefore, and in line with the report's recommendation, the bill removes the provisions in the Act relating to the Pap test register.

I am pleased that many stakeholder groups and members of the public contributed to the review of the Public Health Act. Many of the submissions received related to nursing homes. Under the Act, certain nursing homes must have a registered nurse on duty at all times. However, the definition of "nursing homes" is problematic as it refers to facilities that provide care under the Commonwealth Aged Care Act in relation to an allocated place that requires a high level of residential care within the meaning of the Commonwealth Act. The Commonwealth has since removed the distinction between high levels and low levels of care. Regulations are in place to grandparent existing nursing homes in New South Wales that previously had a requirement to have a registered nurse on site at all times. The issue of aged care is the responsibility of the Commonwealth. However, the New South Wales Government referred the issue of staffing in nursing homes to the Council of Australian Governments Health Council. I am pleased that the Commonwealth has subsequently undertaken public consultation on a proposed new set of quality standards for all aged care services. The draft standards include a requirement that facilities provide a sufficient skilled and qualified workforce to provide safe and quality care and services. I look forward to the development of these standards.

The Public Health Act is the primary health legislation in New South Wales. The amendments in the bill will ensure that the Act remains effective and up to date in protecting public health and controlling the risks to public health. In finalising my comments to the House, I acknowledge a range of public servants who worked extremely hard on the review and the bill that is before us today. They are Kerry Chant, NSW Chief Health Officer; Jeremy McAnulty, Director of Health Protection NSW; Vicki Sheppeard, Director of Communicable Diseases, Health Protection NSW; Ben Scalley, Director of Environmental Health, Health Protection NSW; and Gemma Broderick, Senior Legal Officer, NSW Health. I have had a number of meetings with each of those public servants and they have been extremely professional and objective and have provided wise counsel to me as the Minister for Health, and Minister for Medical Research. I acknowledge that legislation such as this often takes a long time, but it requires the hard work of professional public servants. Each of those people fit that category and I thank them for their efforts. I commend the bill to the House.

Debate adjourned.

LEGISLATIVE ASSEMBLY

Wednesday, 13 September 2017

Bills

PUBLIC HEALTH AMENDMENT (REVIEW) BILL 2017

Second Reading

Debate resumed from 10 August 2017.

Ms KATE WASHINGTON (Port Stephens) (10:13): As the representative in this place of Labor's shadow Minister for Health, the indomitable the Hon. Walt Secord, I lead for the Labor Opposition in response to the Public Health Amendment (Review) Bill 2017. This bill makes a number of changes to the Public Health Act as part of its statutory review process and was guided by more than 200 submissions, which were received as part of that process. Obviously, the Act, as its name suggests, governs public health. The statutory review process identified a number of changes to the Act that would better protect public health, which gave rise to a number of recommendations. This bill predominantly gives effect to those recommendations. It includes a range of legislative changes relating to public health orders, vaccine-preventable diseases and childcare vaccination standards, public health registers, reforms to drinking water supply protections, prohibiting eyeball tattooing, privacy reforms for people who are HIV positive and various other changes including reforms to the powers and responsibilities of the Secretary of Health.

The Labor opposition is supportive of the substance of the bill as it essentially strengthens public health initiatives and protections. We will, however, be proposing a number of technical amendments to assist the functionality of some aspects of this bill. Those amendments will be proposed in the other place by the shadow Minister for Health, the Hon. Walt Secord. I would like to discuss a number of the important changes contained within this bill, the first of which are the amendments to the public health orders. This bill will require a person with certain serious health conditions such as Ebola virus, avian influenza, typhoid fever, Middle East respiratory syndrome, severe acute respiratory syndrome or human immunodeficiency virus to comply with lawful directions of treatment and/or detainment or other related directions for the purposes of reducing risks to public health. This will ensure that health authorities have available to them the information and legal power to make sure the general population is protected from serious communicable health conditions as far as is possible.

Importantly, there are safeguards within the bill that provide for public health orders to be reviewed by the NSW Civil and Administrative Tribunal. Regarding the length of time a public health order can apply, under this bill an order cannot exceed the incubation period of the relevant disease which led to the order being made, so affected patients can only be subject to a public health order for the incubation period of their illness or the disease to which they may have been exposed, and no longer. People who are subject to a public health order may be required to provide details about other people who they have come into contact with. This will only assist health authorities to better understand and manage notifiable disease outbreaks and protect the community.

Another significant element of this bill is the introduction of universal childcare vaccination standards across the State. Under the bill children must be up to date with their vaccination schedule to be enrolled in child

care. This bill adopts the Labor Party's sensible plan, whereby children who are not vaccinated are refused enrolment in early education services in order to protect the other children at the centres and the community at large. I understand that this is a sensitive policy initiative and, as the shadow Minister for Early Childhood Education, I have received concerns from early childhood experts about the impact on children who cannot access all-important preschooling as a result of a decision made by their parents. I acknowledge and respect these concerns; however, it is the view of the Labor Opposition that anti-vaccination rhetoric is not only unfounded and unscientific, but is dangerous to the community and that this danger outweighs the potential disadvantage.

For babies who cannot be fully vaccinated and for those children and adults who, for medical reasons, cannot be vaccinated, we must ensure that the remainder of the population is vaccinated to protect themselves and those who cannot. Vaccinations have played, and continue to play, a vitally important role in our community's health. They are responsible for the reduction—and almost total eradication—of some of the most horrific diseases which cause death and/or lifelong suffering. I would like to take a moment to recognise the amazing work undertaken by Rotary and its quest to end polio globally, something that has almost been achieved in just one generation as a result of commitment, tenacity and an enormous amount of fundraising. It has been achieved by making a vaccine available to all. The role of vaccinations in reducing suffering, pain and heartache cannot be underestimated. They underpin our public health system by aiming to improve our entire population's health and removing health inequities across our community.

There is a disturbing trend in particular areas of New South Wales whereby families are choosing not to have their children vaccinated—children who have no contra-indications to vaccinations. This is disturbing and threatens the health of other children, and potentially opens the door wider to diseases that we thought were almost gone. These actions are irresponsible. The laws proposed in this bill, like those proposed by the Labor Party, are designed to provide an incentive for families to vaccinate their children.

The proposed laws will allow for certain groups of vulnerable children to enrol in childcare centres if they are on an approved catch-up schedule and on the condition of providing full vaccination documentation within 12 weeks of enrolment. This will ensure that children who are in out-of-home care, for example, are not disadvantaged because of their situation and carers are given a reasonable opportunity to comply with the law. For the purposes of ensuring the integrity of the system, this bill creates an offence for a person to forge or falsify a vaccination certificate in order to enrol a child in a childcare centre. It also extends the existing provisions that apply to primary schools to high schools and requires principals to obtain information about a child's vaccination status at the time of enrolment.

There are provisions within the bill that allow a public health officer to exclude a child with a vaccine preventable disease or an unvaccinated child from high school during the outbreak of a vaccine preventable disease. There are also provisions that allow a public health officer to take action to exclude a child from child care or an early education facility or school if the officer believes that an unvaccinated child has come into contact with a person with a vaccine preventable disease, even if there is not an outbreak within that facility or school. Again, these provisions will assist our health authorities to manage notifiable disease outbreaks and better protect our communities. The bill amends sections 54, 55 and 83 of the Act to allow the Secretary of NSW Health in certain circumstances to obtain information about a person with a scheduled medical condition or notifiable disease and also allows the secretary to apply for a search warrant in the course of a public health inquiry. This is an important amendment because, as we have seen during the recent chemotherapy protocol inquiry, several medical staff refused to cooperate with the inquiry that was ultimately set up to ensure the integrity of the system. Under these changes those medical staff would be required to cooperate with the inquiry and that is undeniably in the public interest.

There are changes within this bill that will provide additional privacy protections for people with a category 5 health condition or human immunodeficiency virus [HIV]. This will bring HIV pathology tests in line with other similar tests identifying information contained within the request form. This is a stakeholder-led change that will increase patients' privacy protections and reduce barriers to HIV testing. This bill also expands the current exemptions for non-disclosure to ensure a person's HIV status can be disclosed for the purposes of providing treatment or counselling, but only if that disclosure is relevant to the care, treatment or counselling that is being provided. These legislative changes will ensure HIV-positive people have increased privacy protections, while making sure the disclosure of a person's HIV status is limited to circumstances where it is relevant for a medical professional to be made aware.

The bill also removes provisions in the Act relating to the NSW Pap Test Register. Up until now the Cancer Institute has undertaken the important task of maintaining a register and notifying women when they are due or overdue to have another pap test to screen for cervical cancer. While the States and Territories have undertaken this task, this role will now be undertaken by the Commonwealth under its new National Cancer Screening Register for a range of cancers, not just cervical cancer. A national register will mean that we can

continue to assist women who move interstate to keep up-to-date with screening. The New South Wales Opposition supports this measure, although somewhat cautiously given the Commonwealth Government's consistent propensity to make a mess of large rollouts, such as we have seen with the census.

The bill also goes some way to give effect to another of Labor's policies, banning the practice of eyeball tattooing in the hands of unqualified people—a long overdue provision that for some time the shadow Minister for Health, the Hon. Walt Secord, has rightly been calling for. The new section 39A will make it an offence for a person other than a qualified and recognised medical practitioner or a person prescribed by regulation to carry out this dangerous and somewhat unusual procedure. The bill also makes it an offence for a supplier of drinking water to fail to establish or adhere to a quality assurance program, unless exempted by the Chief Health Officer. Suppliers of drinking water will now be required to provide the information gathered through their quality assurance program to the Secretary of NSW Health so that public safety concerns can be monitored and management practices put in place in order to ensure drinking water is safe for local communities.

On the issue of water safety the bill expands the scope of our public health law that relates to reducing the risk of legionella bacteria. The law will now include pools on residential premises that are used for commercial purposes such as home-based learn-to-swim businesses, as well as public splash parks and interactive fountains. It clarifies the responsibilities of owners corporations of multi-tenanted premises where those premises contain a water cooling system or air handling unit. These changes are designed to better protect the public from legionnaires' disease by ensuring a strict system of accountability exists to reduce the risk of legionella bacteria within the community.

I draw the attention of the House to the Minister's reference in his second reading speech that the bulk of submissions made as part of the statutory review process related to the need for registered nurses [RNs] in nursing homes 24 hours a day, 7 days a week. The Minister stated, "The issue of aged care is the responsibility of the Commonwealth". Here we have another public health protection measure that the State Government has chosen to wipe its hands of and pass the buck to the Commonwealth. My view differs to that of the Minister. While there is not an obligation under Commonwealth laws the State should ensure that RNs are in our nursing homes 24 hours a day, 7 days a week. The responsibility for our frail and aged is the responsibility of us all. It is disappointing, although not surprising, that the Minister has not taken this opportunity to redress this missing safeguard. It is of great concern to many in the community, as reflected in the submissions made to the statutory review process.

In closing, this bill includes sensible changes that will improve public health, allow our health authorities to better understand and manage notifiable diseases, and protect the community from vaccine preventable disease and outbreaks. I thank the Minister for Health for recognising the good policies developed by the New South Wales Opposition under the direction and guidance of the shadow Minister for Health, the Hon. Walt Secord, and incorporating a number of them into this bill. It is pleasing to see the Government once again following our lead on these serious public health issues. On this side of the House, we will always develop and support good public health policy because fundamentally it means our community is safer, stronger and fewer people suffer harm. On behalf of the Labor Opposition team, we support this bill.

Mr ADAM CROUCH (Terrigal) (10:26): I am the first to speak for the Government in debate on the Public Health Amendment (Review) Bill 2017. The object of this bill is to amend the Public Health Act 2010 as a result of the statutory review of that Act. I congratulate the Minister for Health and his outstanding team for all the hard work they put in to update the bill. I note that it was the Minister for Health and his department who took the lead on this bill and not those opposite. I commend the work done to develop the changes and amendments to the original 2010 Act. I will highlight the point outlined by the member for Port Stephens concerning child vaccination. Vaccination has proved to be a great public health success, with many once-feared diseases now controlled in this country due to strong vaccination programs.

This Government is serious about building on the success of these programs to ensure the protection of our community's most vulnerable populations. I draw the attention of the House to schedules 138 and 139 which amend section 87 of the Act to provide 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 in respect of specific vaccine preventable diseases. The proposed amendment makes it an offence with a maximum penalty of $5,500 for the principal of a childcare facility to enrol a child at a facility if the principal has not been provided with a vaccination certificate or a medical certificate and to fail to retain information in the register in accordance with regulations. Schedule 1 [41] makes a consequential amendment. Schedule 1 [40] substantiates section 87 (2) to make it an offence with a maximum penalty of $5,500 for a person to forge or falsify any certificate that is required to be provided under section 87.

Schedules 1 [37] and [44] apply sections 86 and 88 of the Act respectively to principals of high schools as well as primary schools. Those provisions place certain requirements on principals in relation to the

immunisation status of children enrolled at schools and during an outbreak of a vaccine-preventable disease at their school. Schedules 1 [34] to [36] make consequential amendments. Schedule 1 [42] substantiates section 88 (1) of the Act to require the principal of a school or childcare facility to notify the public health officer in an approved form if the principal becomes aware that the child enrolled at the school or facility has a vaccine-preventable disease or if the principal reasonably suspects that a child enrolled in the school or facility for whom no immunisation certificate has been provided has come into contact with a person who has a vaccine-preventable disease. Schedule 1 [43] makes a consequential amendment.

Schedule 1 [45] amends section 88 (2) of the Act to enable the public health officer, in the event of an outbreak of a vaccine preventable disease, to direct the principal of a school or childcare facility to notify the parent of a child who has the disease, who has come into contact with a person who has the disease or for whom no immunisation certificate has been provided, that the child is not to attend the school or facility for the duration of the outbreak. Children are particularly vulnerable because young babies cannot be fully protected by vaccination. Furthermore, some children and adults cannot be vaccinated for medical reasons. This is why the bill before the House amends the Public Health Act to require a principal of a childcare facility to prevent a child who is unvaccinated solely due to the objections of their parents from being enrolled in child care.

Excluding unvaccinated children from attending child care will send a very strong public health message about the importance of vaccination. It will also reinforce the overwhelming scientific evidence that vaccination is safe and highly effective in preventing disease and may help to reduce the transmission of disease in certain geographical areas. Removing this exemption will also align with the Commonwealth Government's No Jab, No Pay measure, under which certain childcare and family tax benefits are dependent on a child being vaccinated. These changes also respond to the Prime Minister's calls for a nationwide approach to increasing rates of vaccination in early childhood education and the removal of conscientious objection to vaccination for children in child care.

This Government supports that national approach. Vaccine-preventable diseases do not respect State and Territory boundaries, so national cooperation on this issue is critical. These measures, which strengthen childcare vaccination, are important because childcare facilities can expose children to increased risk of the spread of diseases. Importantly, the vast majority of children will be unaffected by the changes because more than 93 per cent of children in New South Wales are fully vaccinated at five years of age. Children who cannot be fully vaccinated due to a medical condition or who are on a recognised catch-up schedule will still be able to be enrolled upon presentation of the appropriate form signed by a medical practitioner. Furthermore, the Public Health Regulation exempts children in emergency out-of-home care and children who have been evacuated during a state of emergency from the vaccination enrolment requirements. Parents or carers of these children are required to provide the vaccination records within 12 weeks of enrolment.

These time-limited exemptions are included because the parents or carers of such children may find it difficult to produce the required records at enrolment. This bill amends the Public Health Regulation to extend the existing time-limited exemptions to Aboriginal and Torres Strait Islander children and children in out-of-home care. It is important to acknowledge that these additional exemptions do not mean that these children are not expected to be vaccinated. Instead, the exemptions recognise that parents or carers of these children may also face challenges gaining timely access to these records at enrolment. In fact, a strong collaboration between Aboriginal communities and clinicians has meant that the gap in immunisation coverage between Aboriginal and non-Aboriginal children has closed in New South Wales. That is incredibly heartening to hear.

Despite pleasing results across all age groups, there is no room for complacency about our vaccination programs. It is important that those who can be vaccinated do so to ensure the protection of those who cannot be vaccinated.

The Save the Date vaccination campaign commenced in 2013 to provide parents with key messages about the importance of timely vaccination. It included the popular phone application which reminds parents when their children's vaccinations are due. The 2017 campaign also included television, print, digital and social media campaigns. This Government does not rest on its laurels when it comes to vaccinations. Furthermore, in response to a rapid increase of meningococcal type W in recent years, years 11 and 12 students in all New South Wales high schools are being offered the meningococcal ACWY vaccine throughout 2017. The vaccine will protect students against type W, provide a booster dose for type C and also protect against types A and Y.

The Government takes the role of promoting vaccinations across New South Wales seriously and it will continue to work hard to protect our communities from preventable diseases. The Public Health Amendment (Review) Bill is part of a statutory review of the Public Health Act 2010. I commend the Minister for taking the lead in this role, as well as his team and the consultation that has taken place as part of the review process. I commend the bill to the House.

Mr GREG WARREN (Campbelltown) (10:35): I am delighted to contribute to debate on the Public Health Amendment (Review) Bill 2017, which relates to the important but controversial issue of vaccinations. From the outset, I make it clear that I support vaccinations. I have long supported the Labor Opposition's position on vaccinations and whether unvaccinated children should be permitted to attend childcare centres and schools. I had a conversation with a Campbelltown constituent who, after hearing Senator Pauline Hanson's comments on vaccinations in the Senate, will no longer support her. With all due respect to Senator Hanson, she yet again saw an opportunity for popularity but she was on the wrong horse on this issue as a lot of her followers are demographically diverse and her speech went against her. The constituent I spoke with was an elderly woman who had lost a child to a disease because a vaccination was not available when her child was ill.

A lot of people are alive as a result of vaccinations. People older than me, such as my parents and grandparents, baby boomers and others have lived through times when children have died needlessly. Immunisation is science at work—work that began some time ago. The amendments in the bill are appropriate to ensure that stronger measures are put in place. That is why we on this side are supporting the bill that was introduced by the Government. The bill makes small amendments to the Public Health Act, but the key amendment will ban unvaccinated children from being enrolled at childcare centres, which I support. I am a firm believer that parents should have the right to raise their children as they see fit, but nobody has the right to endanger the lives of their child or other children by refusing to have their child vaccinated.

Recent reports which show that the attendance of patients at New South Wales hospitals with vaccination-preventable diseases, such as whooping cough and measles, has become prevalent are an indication why we need to take these appropriate steps. Earlier this month it was reported that a northern beaches mother wants to set up a vaccine-free day care centre, and in September 2015 a Lismore mother said that she wanted to set up a similar venture in her area.

Both women have called for expressions of support to sidestep current laws which require children in childcare centres to be vaccinated.

In order to achieve herd immunity in Australia we must maintain a vaccination rate much higher than 90 per cent. Having a large percentage of the population immune provides a form of indirect protection from infectious diseases. As a father of two boys, I am a firm supporter of immunisation. We need to find ways to increase vaccination rates. If it requires us to fix loopholes, as these amendments will, I welcome such measures. We make no apologies for taking these tough steps to protect children, even if they are controversial. As with most matters that come to this place and in public discussions and debate, everyone is entitled to their opinion. I respect those who have an alternative opinion but, reciprocally, it is only fair that they respect those who strongly support immunisation.

It is concerning to see vaccination rates dropping to dangerously low levels in some areas. From memory, the far North Coast, the eastern suburbs and the north shore have the worst vaccination rates. The rates of immunisation for five-year-olds in various areas are: Mullumbimby, 52 per cent; Byron Bay, 73.2 per cent; Bondi, 86.8 per cent; the Sydney central business district, 70.5 per cent; and Burwood 81.4 per cent, or 2,134 five-year-olds fully immunised. These disturbing figures highlight why these amendments are required. I draw the House's attention to some definitions in the amendments. At part 2, schedule 1, the bill states:

Section 4 Responsibilities of local government relating to environmental health

Insert "private water suppliers, water carters," before "public" in section 4 (1).

Part 3, schedule 1 defines "private water supplier":

Section 4 (3)

Insert after section 4 (2):

(3) In this section:

private water supplier means a person who supplies drinking water in the course of a commercial undertaking (other than that of supplying bottled or packaged drinking water), being a person who has not received the water:

(a) any supplied drinking water referred to in paragraphs (a)-(g) of the definition of *supplier of drinking water* in section 5 (1), or

(b) in the form of bottled or packaged water.

I note the discussions relating to the proposed amendments to section 79 of the Act, and I look forward to seeing what transpires in that regard. I refer to proposed section 39A, "Eyeball tattooing to be carried out by a medical practitioner or other qualified person". There are not many more sensitive parts of the human body than our eyes and we must take care of them. It is the role of this Parliament to ensure that safety measures are in place for eyeball tattooing, just as with any other procedure. It is beyond me why anybody would want to tattoo their eyes

but, clearly, those people also need protection. The amendments in this bill will provide that protection. The public would be most interested in the proposed change to section 87 of the Act, "Responsibilities of principals of child care facilities with respect to immunisation". The bill omits section 87 (1) (a) to (c) and inserts instead:

> (a) a vaccination certificate and, if the vaccination certificate does not cover some of the vaccine preventable diseases for which immunisation at the child's age is recommended by the NSW Immunisation Schedule, a medical certificate in respect of any vaccine preventable disease not covered by the vaccination certificate, or
>
> (b) if a vaccination certificate is not provided—a medical certificate in respect of the vaccine preventable diseases for which immunisation at the child's age is recommended by the NSW Immunisation Schedule.

I draw the attention of members to new section 88, which relates to the responsibilities of principals during outbreaks of vaccine preventable diseases. It reads:

> (1) The principal of a school or child care facility must, as soon as practicable, ensure that the public health officer is given notice in writing, in the approved form, if:
>
> (a) the principal becomes aware that a child enrolled at the school or facility has a vaccine preventable disease, or
>
> (b) the principal reasonably suspects that a child enrolled at the school or facility who is a child at risk has come into contact with a person who has a vaccine preventable disease.

The Opposition is supporting the bill and I will be watching its passage through the other House with interest. I acknowledge the Hon. Walt Secord, who has led this debate for some time. Taking a collaborative approach to amendments on these matters is for the benefit of all.

Mr STEPHEN BROMHEAD (Myall Lakes) (10:45): I support the Public Health Amendment (Review) Bill 2017 and congratulate the Minister for Health, Brad Hazzard, on bringing it forward. It is great to see legislation like this before the House. It is wonderful to have the member for Port Stephens in Parliament today. Having been expelled from the Chamber yesterday, it was great to see her here to make her contribution. The member complimented the Government on the bill and on its good work. We are all about good governance for the people of the New South Wales through legislation like this. It was good to hear the member for Port Stephens—who is affectionately known as the member for potty-mouth—recognising the support this bill has received.

The member for Port Stephens made one mistake when she spoke about the requirement to have registered nurses in nursing homes 24 hours a day, seven days a week. We support registered nurses 24/7 in high-care facilities, but low-care facilities have never had registered nurses and they are not required. Low-care patients in aged care facilities require other things. I repeat that in high-care facilities we support 24/7 nursing but in facilities with low-care patients it is not required. The member for Port Stephens and the member for Campbelltown mentioned the Hon. Walt Secord. I have done some checking. He played no role in the drafting of this legislation and made no contribution to the Minister about it. We must remember that Walt Secord, like the member for Port Stephens—

Mr Greg Warren: Point of order: My point of order is relevance. Members are allowed to refer to the contribution of other members. Let us keep this mature.

TEMPORARY SPEAKER (Mr Greg Aplin): Order! There is no point of order. The member for Myall Lakes has the call.

Mr STEPHEN BROMHEAD: We must remember that the member for Port Stephens and Walt Secord have been playing from the old Labor Party handbook written by Graham Richardson, which states to do and say whatever it takes; do not let the truth get in the way. We recently had a farcical situation in Myall Lakes. The Hon. Walt Secord visited the electorate and addressed the public by saying that our oncology services had been run down. When we came to government there were no oncology services in Myall Lakes. We now have one oncologist and a second will be starting in January. I do not know how it could be said that oncology services are being run down.

He said also that there is no cardiology unit. There is a cardiology unit; it is in the intensive care section, as it is at Port Macquarie hospital. Walt Secord is a scaremonger. He is going around the countryside whipping up community concern when there is no need for anyone to be concerned. Our hospital is doing a fantastic job. Indeed, the latest statistics show that it is meeting and exceeding its key performance indicators and the State average. The community should not listen to Walt Secord because he is not telling the truth.

I turn now to the bill. The Government has introduced the Public Health Amendment (Review) Bill 2017 for the good governance of this State. That has been recognised by the support of those opposite for this bill. The

object of the bill is to amend the Public Health Act 2010 as a result of a statutory review of that Act. In November 2016 the report on the statutory review of the Public Health Act 2010 was tabled, informed by a discussion paper and more than 200 submissions from stakeholders and members of the public. The review concluded that an additional object should be included in the Act "to monitor diseases and conditions affecting public health".

The majority of the amendments proposed in the bill relate to this object and include the tightening of vaccination requirements for childcare centres and schools and the creation of certain exemptions from vaccination enrolment requirements. The amendments include also increasing the secretary's ease of access to information regarding scheduled medical conditions and notifiable diseases; amendments to public health orders; changing the disclosure requirements for patients with HIV; and removing the requirement for persons with a sexually transmitted infection to notify partners. Other amendments proposed in the bill relate to environmental health premises and the supply of water.

Minister Hazzard noted in his second reading speech that the bill also removes provisions relating to the Pap Test Register as a result of the establishment of a national cancer screening register. The bill amends division 4 of part 5 in a number of ways, some of which I have already outlined, including removing the ability of a childcare facility to enrol a child who is unvaccinated due to the conscientious objections of their parents. A childcare facility will only be able to enrol a child who is fully vaccinated, is on an approved catch-up schedule or has a medical contraindication to vaccination. It will be an offence for a director of a childcare facility to not comply. Certain categories of vulnerable children such as Aboriginal and Torres Strait Islander children and children in out-of-home care will still be able to enrol but they will have to provide their vaccination documentation within 12 weeks of enrolment.

The bill creates an offence for a person to forge or falsify a vaccination certificate provided to a childcare facility to enable the enrolment of a child. It also extends the existing provisions that apply to primary schools to high schools. This will require principals of high schools to obtain information about a child's vaccination status at enrolment and allow a public health office to exclude a child with a vaccine-preventable disease or an unvaccinated child from high school during the outbreak of a vaccine-preventable disease. It allows a public health officer to take action to exclude a child from a childcare facility or school if the officer believes that an unvaccinated child has come into contact with a person with a vaccine-preventable disease, even if there is not an outbreak at the childcare facility or school. This will assist in better preventing outbreaks from occurring.

The bill also amends section 25 to make it an offence for a supplier of drinking water, unless exempted by the Chief Health Officer, to fail to establish or adhere to a quality assurance program. In addition, suppliers of drinking water will be required to provide a copy of the quality assurance program to the Health secretary. It also makes minor changes to the environmental health premises provisions to clarify that a public swimming pool includes a pool on a residential premises that is used for commercial purposes, as well as splash parks and interactive fountains. The bill clarifies that the definition of "skin penetration" includes procedures that penetrate a mucous membrane such as the tongue.

The bill also gives the secretary the ability to obtain further information about a person with a scheduled medical condition or a notifiable disease who has been notified to the secretary by the patient's treating medical practitioner. These changes will ensure that where the treating medical practitioner is not the person who made the notification, relevant information about the patient's medical condition and risk factors can be obtained by the secretary. I commend the bill to the House.

Ms JO HAYLEN (Summer Hill) (10:55): I speak in this second reading debate on the Public Health Amendment (Review) Bill 2017, an omnibus bill in response to the statutory review of the Public Health Act. I want to speak in particular about two aspects of the bill that have raised particular interest from constituents in my electorate of Summer Hill. First, I join my colleagues in welcoming the Minister's decision to adopt Labor's policy of closing loopholes in the vaccination requirements for enrolling children at childcare centres and schools. Secondly, I cautiously note the bill's amendments to the privacy arrangements for citizens of New South Wales with HIV and AIDS and note the concerns raised by key stakeholders, including the AIDS Council of New South Wales [ACON], regarding amendments to the penalty criminalising the transmission of sexually transmitted infections.

There has been, maybe, no greater breakthrough in the history of modern medicine than vaccination. Vaccination has been part of Australia's medical practices since 1804, when the first smallpox vaccine was used. Australia's first mass vaccination program began in 1924 and its first school-based program commenced 1932. Since that time, vaccination rates have risen and the prevalence of common diseases has fallen, saving countless lives over successive generations. This bill strengthens immunisation by removing provisions of so-called conscientious objection when enrolling children in early childhood education, and childcare operators will only be permitted to enrol a child in a childcare facility if they are fully vaccinated or on an approved catch-up schedule,

or if they have a medical contraindication to vaccinations such as chemotherapy, organ donation or recognised major illness.

The bill provides sensible exemptions, including for children receiving cancer treatment or children identified as Aboriginal or Torres Strait Islander or living in out-of-home care. As the Minister noted in his second reading speech, these two demographic groups are exempt not because they have low immunisation rates—in fact, the immunisation rates for Aboriginal and Torres Strait Islander groups are often higher than for non-Indigenous communities—but because they may have substantially more difficulty in obtaining records to prove the case. Currently, the rate of full immunisation amongst New South Wales children aged up to 15 months sits at 93.6 per cent. That is the third lowest in the country, behind the Northern Territory and Western Australia. The immunisation rate for children aged two years is only 90.23 per cent.

Of course, in some communities it is even more dangerously lower than this. Vaccination rates of five-year-olds in Byron Bay stood at 61 per cent and the rate was 46.7 per cent in Mullumbimby. Shamefully, the lowest vaccination rate in Australia is right here in the city of Sydney central business district, with just 70.5 per cent of five-year-olds being fully vaccinated. That is far below the rate of 95 per cent which experts set as the threshold for herd immunity—the rate at which a sufficient number of people are immunised to protect the small number who cannot be immunised for medical reasons.

There are a small number of genuine reasons why a parent might choose not to vaccinate their children: they have a contraindication to vaccines, including anaphylaxis; they are too young for a specific vaccine; or due to immune deficiency because they are undergoing specific treatments for cancer. Conscientious objection to vaccinations is not and will never be a genuine reason for failing to vaccinate a child. Conscientious objection selfishly puts the health of that unvaccinated child at risk but also risks the health of every child and adult who cannot be vaccinated for genuine medical reasons. Non-immunisation is responsible for the return of common diseases including measles, mumps and whooping cough. Many parents in my electorate are aware of this and find it very concerning.

As of December 2015, a total of 8,115 children in New South Wales were recorded as having a conscientious objection against vaccination. Thankfully that is on a downward trend, but that is still 8,115 too many. Young lives are at risk from crackpot conspiracies peddled by those who should know better. Conspiracies include claims that vaccinations are agents of government mind control, or are a pro-capitalist plot cooked up by big pharma. The purported link between combined vaccinations and autism can be traced back to 1998 when a former doctor, Andrew Wakefield, claimed that there was a link between the two. The Texan-born doctor has since been struck off the medical register and his research papers have been retracted. However, potentially because the theory gained popularity among celebrities, the myth persists and is endangering lives. These ludicrous theories have taken hold in certain political classes; they have been spouted by luminaries like Pauline Hanson and Donald Trump as well as, it indeed should be said, by certain members of the New South Wales Greens.

Of course, each of those claims fails to acknowledge the significant reduction of contagion of many deadly infections and the complete elimination of others. Those conspiracies also fail to acknowledge the risk that not vaccinating children poses to other children and the community as a whole. Labor proposed the changes we see in the bill following reports of families seeking to establish anti-vaxxer childcare centres and exploiting loopholes in the existing legislation designed to protect children. This bill adopts sensible and principled measures that will further the protections offered by immunisation and ensure that no child is exposed to the risk and suffering of deadly infection from diseases that are easily prevented. The bill also exposes the truth about conscientious objection: There is no such thing as a conscientious objector to vaccination, just anti-vaxxers.

I also comment briefly on another measure contained in the bill that has raised interest in my electorate—the provisions around sexually transmitted infections [STIs]. The bill removes existing disclosure requirements that demand a person disclose their STI status before engaging in sexual activity with another person. This is a positive step that represents a move towards a recognition that sexual health is a mutual responsibility. However, I am concerned about any move to criminalise the transmission of an STI in a private setting. We know that our health-focused approach in New South Wales has made our State a world leader in HIV prevention and we must continue to give primacy to health experts and to evolve our response.

Evidence suggests that shifting the focus of managing STIs from a health setting to the criminal code may discourage testing, intensify existing stigma, possibly clog up our courts and undermine the best practice strategy on ending HIV-AIDS in effect here in New South Wales. I am concerned that those impacts have not been properly thought through. I support the Opposition's amendments to bring forward the statutory review of these aspects of the bill to 2019. We must ensure that we assess the impacts of the Minister's reforms in a timely way and ensure that there are no unintended consequences to overall public health strategy when it comes to

HIV/AIDS and to the individual health outcomes of those in our community living with HIV. The purpose of this bill should be to protect the vulnerable when it comes to public health.

While I think there is significantly more work to do on some aspects of the bill, I absolutely welcome the Government's decision to adopt Labor's policy of closing loopholes for anti-vaxxers. That will lead to substantively better health outcomes for our community and protect those who cannot be immunised for legitimate medical reasons.

Mr MARK TAYLOR (Seven Hills) (11:02): It is a pleasure to contribute to debate on the Public Health Amendment (Review) Bill 2017. I acknowledge the contributions by speakers who preceded me in this debate, in particular comments made by the member for Summer Hill concerning vaccination and support for the bill, comments made by the member for Terrigal, who is the Chair of the Health Care Complaints Committee in this Parliament, and comments made by the member for Myall Lakes, who was a registered nurse in a previous life. The main purpose of the bill is to make a number of changes to the Public Health Act 2010 following a recent statutory review of that Act and other developments in public health. Having been involved in a number of statutory reviews of various Acts prior to becoming a member of Parliament, I am fully aware that that is one of the most important processes we have in this State and is characterised by wide consultation with agencies and stakeholders who have an involvement in the operation of an Act. That process has proved to be satisfactory in improving the laws in operation in our State and this bill is a result of a statutory review process.

In 2016 the Ministry of Health conducted a review of the Public Health Act to determine if the objectives of the Act remain valid and if the provisions of the Act are appropriate to secure those objectives. As part of the review, the "Report of the Statutory Review of the Public Health Act 2010" was tabled in this Parliament in late 2016. The report found that the Act was working well overall, but a number of recommendations were made for improvements in the operation of the Act. The Public Health Amendment (Review) bill 2017, which has been introduced by the Minister for Health, and Minister for Medical Research, will implement those recommendations. The Minister for Health certainly knows his brief.

Recently I have visited a number of our public hospitals in the company of the Minister. Redevelopment is taking place at Blacktown Hospital and I recall the Minister speaking to numerous staff members, including doctors and nurses. I remember in particular an occasion when the Minister was speaking to a member of the nursing staff about day-to-day issues and activities. I thought the manner in which the Minister took on board suggestions of the nursing staff was an absolute credit to the interaction between Ministers of this Government and those who are working at the front line in our hospitals. It was a shining example of both taking suggestions on board and making commitments to look into the issues that are raised by staff and good government interacting with those who do such a good job in our community for the benefit of all of us.

Like the original Public Health Act 2010, this bill is all about safety—the safety of all of us in this House and all of us across the community of New South Wales. The bill is designed to protect not only us but also those about whom we care most dearly, particularly children and elderly people. The bill will be a safeguard for the community against harm that may arise in many ways. Common sense suggests that we know we cannot protect everyone from all the ways in which people may come to grief, but we certainly can protect them from harms that are recognised and that we have the means to prevent or minimise. We seek to protect the children in our community by ensuring that they are vaccinated against diseases that could kill children in large numbers if protective measures are not taken. Safe and effective vaccines are widely available throughout our community. This bill will exclude children who are not vaccinated from enrolling in child care if they are not vaccinated due to their parents' objections. This is in line with the request earlier this year to all first Ministers requesting that a national approach be adopted in relation to this very important issue.

Other children who have not been vaccinated, such as those who have a medical condition or who are in out-of-home care or who are on a catch-up schedule, will be able to enrol for child care by producing a form that has been signed by their doctor. This bill extends to high school students protection that already exists in primary schools, which excludes children who have not been vaccinated from a high school during an outbreak of a vaccine-preventable disease. This is a result of recent evidence showing that rates of some illnesses, such as measles, have been higher among high school students than among younger children. The Government also seeks to protect those who, for whatever reason, might want to have their eyeballs tattooed. That shows how far the bill goes to protect. Although I cannot imagine why, apparently eyeball tattooing is a practice pursued by some and it indeed has taken place, fortunately possibly in small numbers. However, it is clear that there are safety issues involved in this practice. This bill limits the practice of eyeball tattooing to being carried out by medical practitioners only.

There are other niche practices that involve the penetration of skin that have arisen over time. This bill tightens up and regulates how those procedures take place. Other areas amended by the bill affect a great many people in our community. Its purpose is to clarify provisions around water cooling towers in the event of an

outbreak of Legionnaires' disease. As I indicated, it is all about the safety of not only the children of our community but also the elderly, who are often severely affected by preventable outbreaks of Legionnaires' disease. It is one that affects the elderly quite severely. This happens when bacteria are able to breed in water cooling towers, which regulate a building's air conditioning. It is a potential problem that can touch anyone working in, visiting or passing through a built-up area with multiple air-conditioning systems.

In summary, this is a bill about safety and protecting the young, old, and all the rest of us in the community. It is a classic example of good government. We are a Government that is not only confident but is also compassionate when it comes to the laws of the State. We are a Government that puts the people of our great State first and the lives of our citizens at the forefront. I commend the bill to the House.

Mr GREG PIPER (Lake Macquarie) (11:09): I contribute to the debate on the Public Health Amendment (Review) Bill 2017. I support the vast majority of the measures in the bill. Anything I say that might be taken to be contrary should not be taken as an indication that I am not concerned. I hope the Minister for Health is having a break. I saw him down here earlier and I know he is quite ill at the moment. This bill deals with a number of public health issues and it is not my intention to deal with all of them individually, as I believe the Minister and the shadow Minister have comprehensively outlined those matters and their objectives earlier in the second reading debate. I will comment briefly on several aspects of the bill that have generated a lot of correspondence to my electorate office and have sparked new debate in some familiar quarters.

Most importantly, this bill introduces measures that will mean a childcare centre will only be able to enrol a child who has been age-appropriately vaccinated. The Minister has outlined several exemptions to that rule, including allowances for children on an approved catch-up schedule, children who have properly identified contra-indicated medical conditions to vaccination, and allowances for children of Aboriginal or Torres Strait Islander descent, who have more difficulty in producing vaccination records. I fully support the Minister's intention in this regard and I applaud him for bringing the substantive part of the bill before the House. I do not accept the views of those parents who conscientiously object to vaccinations in the face of a mountain of evidence and modern science, and who are swayed by the somewhat peripheral arguments peddled by the anti-vaccination lobby, which chooses to ignore so many facts. Sadly, perhaps we will never change the minds of those objectors, but what we can do is try to keep them properly informed of the facts and, more importantly, protect the vast majority of children and parents who do the right and responsible thing, and, of course, those parents' children.

The science on vaccination is in. It is not a perfect science and is one that will continue to evolve. It is not a one-size-fits-all solution, but vaccination clearly unequivocally works. It saves millions of lives, it protects our communities, and any side effects are almost zero when weighed against the global benefits. The World Health Organization estimates that immunisation prevents up to three million deaths every year and is one of the most successful and cost-effective forms of public health intervention. For those living in the developed world, vaccination has so successfully contained once-rampant diseases such as smallpox, measles, polio, tuberculosis, whooping cough and hepatitis A and B that people can easily forget what a scourge these health problems once were. Smallpox, a disease which has been eradicated worldwide thanks to vaccination, killed an estimated 350 million people in the twentieth century alone. Measles is now a relatively rare childhood disease in Australia but it remains a leading cause of death globally among children aged under five.

In the late nineteenth century, tuberculosis was the leading cause of death in Australia. It was 20 times deadlier per capita than all the cancer conditions combined today. Today, tuberculosis is virtually non-existent in Australia, but sadly we do not have to look far to see the impact it is still having in communities that do not have universal access to vaccination. In Papua New Guinea, 14,000 new cases of tuberculosis caused almost 3,000 deaths in 2010, although that annual figure is now falling thanks to greater levels of vaccination. There are many other statistics I could use to illustrate the tragic incidence in the developing world of high mortality rates from vaccine-preventable diseases, but most people are aware of them.

In my time working as a nurse at Morisset Hospital, I cared for a number of people who had suffered severe developmental disability from the infectious and now preventable disease rubella. I also cared for people who had suffered from and carried lifelong debilitation from tuberculosis. I am old enough to have known people who bore the physical effects of polio. Their limps or constant need for leg braces and crutches were the lifelong legacy of a now preventable disease. Since the World Health Organization committed in 1988 to eradicating polio throughout the world, the annual incidence of cases has fallen from 350,000 to several hundred. Polio currently exists in just six countries, which all have isolated cases or outbreaks. Those statistics serve to remind us why we should remain vigilant to the potential dangers of infectious diseases that are now, thankfully, little more than bad memories.

I saw in Martin Place yesterday the protests from some of these conscientious objectors and anti-vaxxers who say that the Parliament does not have the right to remove their freedom of choice, compel them to participate in a public health program they disagree with, or discriminate against their child's right to early education. This

bill does not do any of that. What it does do is protect the health and wellbeing of our entire community, in particular children, who should not be exposed to unnecessary and preventable health risks. I cannot sit by, and I do not think any government should sit by, and allow the health of millions of people to be put at risk by others. All children who can be vaccinated should be vaccinated for their protection as well as that of others.

An area I do have some concern with is the amendment to section 79 of the Public Health Act, which pertains to the requirements and obligations on people with a sexually transmitted infection. The Minister and the Government are generally finding the right balance between the rights and responsibilities of an individual and those of others, but I agree with some of the leading sexual health agencies when they say the penalties appear significantly disproportionate to the crime. Imposing an $11,000 fine, a six-month jail term, or both on one party who fails to disclose a notifiable sexually transmitted infection [STI] is not reasonable. In this day and age, all people should know of their risks and responsibilities during somewhat romantic or sexual encounters, however random or regular they may be.

Although I question the proportionality of the measure, a more important consideration could be that legislating such punitive measures will undo so much good that has been done to encourage people to be aware of their sexual health and to seek appropriate health care when they suspect they may have been infected. This is a regressive step that I cannot support. There have been cases of the wilful transmission of an STI where, in effect, that infection has been weaponised for a malicious purpose. However, such actions are covered by criminal law and are considered to be inflicting grievous bodily harm.

Notwithstanding that issue, other amendments contained in this bill offer significant improvements to public health. I specifically note the provisions relating to environmental health, which should further reduce the risk to public health posed by pools or public splash parks, and to section 25 of the Act, which relates to the provision of drinking water. With the exception of those matters around section 79, I thank the Minister and his staff for these amendments, which I believe will result in a significant positive impact on public health. Although I have expressed concern about section 79, I understand there may be some consideration of this in the other place. I cannot be sure whether that will lead to amendments, but I certainly hope that will be addressed. Notwithstanding that particular consideration, I will be supporting the bill in this place.

Mr KEVIN CONOLLY (Riverstone) (11:18): Much of the debate to date on the Public Health Amendment (Review) Bill 2017 has naturally been around issues relating to vaccination, because that has been the controversial element in the community. Some people have argued that they should not be required to vaccinate their children and have strongly entrenched opposition to doing so. I generally take the view that we should restrict people's freedom as little as possible and that we should only do so where a strong argument for the protection of other people's rights would apply. This is such a case. All the scientific evidence available to us leads us collectively, and me as an individual, to the conclusion that it is appropriate for the Parliament to insist that children enrolling in preschool are vaccinated to protect other people's children and the community generally from disease.

We believe vaccination benefits everyone, but we understand that some parents have a conscientious objection to vaccinations. However, we have an obligation to other children in preschool and to the broader community, including the staff of the preschool and people who come in contact with the preschool, to ensure that disease is limited as much as possible. That is the basis on which it is entirely reasonable for the Parliament to legislate to require that only people who have been vaccinated can enter into that childcare or preschool environment. From a practical point of view, we know that preschool is one of the places where many illnesses are incubated. In childcare facilities and in preschools lots of children are in a relatively confined space where they pick up bugs and pass them around—they are very generous like that. People who work in those environments tend to have a high rate of illness because they pick up all the bugs the kids share around. It is common sense that they are obvious places to focus on in preventing the more serious diseases that we can vaccinate against occurring.

There are significant diseases that we know cause real harm, even death, and it makes sense to insist that children are vaccinated against those diseases, when it is medically possible. A small group of people have medical contraindications that make it impossible for them to be vaccinated, and a separate regime needs to be put in place where there is a sound medical reason for doing so. For people for whom there is no medical contraindication, we believe that it is sound policy to require vaccination for entry into preschool and childcare facilities. That puts some conscientious objectors in a hard place. Such parents may have to choose between giving their child a preschool education and taking a stand on what they believe about vaccination. That is their choice, not the community's choice. If those parents believe sufficiently strongly that vaccination is not in the best interest of their child then they have to make other arrangements for preschool education for their child, probably a home-schooling arrangement.

It is a hard call, but it is a necessary one to make in the interests of public health and we should not resile from it. Extensions of the vaccination regime and the powers of the Chief Medical Officer to insist that children

in higher levels of education be withdrawn from educational settings during outbreaks or once they have been in contact with an infected person are sensible incremental measures to improve the effectiveness of the regime we have in place that is designed to protect schoolchildren, in particular, as well as the broader community from communicable diseases. It is important that we take steps, when the evidence indicates that we should, to protect the broader community.

The history of vaccination is a success story. There are diseases that are hardly known in Australia today—in fact, diseases that are hardly known in many parts of the world—because vaccination has been hugely successful. It is perhaps easy to lose sight of how diseases affected the world's population 50 or 100 years ago, when some seriously nasty diseases were relatively common. Without having the means to prevent the spread of those diseases, they either killed, maimed, crippled or severely disabled people. We have all heard heart-rending horror stories about polio victims in the 1950s and 1960s. At the time it was difficult for anybody to prevent the spread of this disease. In the modern world we have the tools to deal with these diseases, and so it would be not only tragic but also criminal if we were not to use them to protect people in our community. In Australia today we do not have outbreaks of these diseases, but were we to drop the shield of vaccination some very nasty diseases might well rear their ugly heads again in our community. We should not lose sight of what we are doing and the great gains that we have made in public health.

As we have heard, the bill deals with a number of other minor but nevertheless significant changes to improve public health in New South Wales including by clarifying who is responsible for cooling towers to help prevent Legionnaires' disease and tightening wording around the supply of drinking water to make sure we have quality assurance programs in place and the ability to monitor them. The legislation also deals with eyeball tattooing and other kinds of skin penetration that may make us shiver but which some people in our community engage in and therefore need to be undertaken in regulated and safe conditions to ensure the protection of public health. All of the measures in this legislation are sensible small steps forward.

I note the reservations of the member for Lake Macquarie about section new 79. I had other reservations about that section, but on balance I know that the Minister is trying to reach a sensible balance. Despite my reservations, I believe the bill it is an attempt to pursue the broader goal of protecting the community generally from communicable diseases, which we have the capacity to prevent. On that basis, I believe this is a sensible bill, which I support. I believe that the bill's controversial measures for vaccination are well and truly justified because we should be undertaking such steps. Despite it being a tough call for some conscientious objectors, we have to take a stand on vaccination in the interests of the broader community.

Mr PHILIP DONATO (Orange) (11:26): On behalf of the Shooters, Fishers and Farmers Party and the people of Orange, I speak in debate on the Government's Public Health Amendment (Review) Bill 2017. From the outset, I indicate that we support this bill. Health care is a vital service that we all rely on, and rural communities especially rely on it, and that is why I will be supporting this bill. Keeping public health regulation and legislation up to date is important, especially in a complex and multi-faceted portfolio such as Health. I know this review has been a long time coming, and I applaud the Minister and his staff for bringing this legislation, especially the provisions for childhood vaccinations and immunisations, before the House.

However, one omission from this bill that was flagged in the Minister for Health's second reading speech speaks volumes. In discussions relating to a 2015 upper House inquiry by General Purpose Standing Committee No. 3 relating to the staffing of registered nurses in nursing homes, the Minister's predecessor, Jillian Skinner, noted that amendments to section 104 of the Public Health Act 2010 were forthcoming in this review. Fast forward to today, and this important review lacks any reference to section 104 that specifically deals with minimum staffing requirements in aged-care facilities. The section was carried forward from section 52 of the Public Health Act 1991 and reads as follows:

> A person who operates a nursing home must ensure that a registered nurse is on duty in the nursing home at all times, and a registered nurse is appointed as a director of nursing of the nursing home ...

As this House knows, this was inadvertently repealed by Federal legislation due to a definition change for the term "nursing home" in 2014, after this safety net had been enjoyed for almost 50 years in New South Wales. Saying that this requirement would bankrupt nursing homes is ridiculous, given its longevity in New South Wales legislation. The straw-man argument that the State Government cannot legislate in this matter is also a fallacy. Not only has this minimum standard been upheld by lawmakers in New South Wales for at least half a century, but there has been no referendum to change the distribution of State and Federal government powers with respect to this matter. For the record, my Shooters Fishers and Farmers Party staff have found this minimum standard in the following New South Wales legislation: section 104, Public Health Act 2010; section 52, Public Health Act 1991; section 39, Nursing Homes Act 1988; section 30, Private Health Establishments Act 1982; and section 2 (m), Private Hospitals (Amendment) Act 1971.

In briefings yesterday the Minister's staff stated that the bandaid regulation by the Minister's predecessor would be carried forward for another 12 months—namely, the Public Health Amendment (Nursing Homes) Regulation 2014. I say this is a bandaid solution because it only extends the provision to existing facilities operating before the legislation was changed on 1 July 2014. I note that there are no longer dedicated high- and low-care facilities but what concerns me is that facilities that were formerly designed as low care are housing high-care residents without the appropriate staffing of registered nurses 24 hours per day, seven days per week. Rather than putting the aged-care industry and elderly residents and their families on tenterhooks for 12 months at a time, the Government should enshrine this regulation in legislation.

I gave the Minister a simple solution earlier this year with the Public Health Amendment (Registered Nurses in Nursing Homes) Bill 2016, but my calls fell on deaf ears. That was put in the too-hard basket and the Minister blamed the Federal Government and washed his hands of the responsibility of caring for thousands of elderly nursing home residents in New South Wales. A petition circulated in my electorate was overwhelmingly in favour of finding a way to reinstate section 104 of the Public Health Act, and I am sure that sentiment is echoed throughout New South Wales. I support this bill, but I had hoped that the Minister would provide for our most vulnerable nursing home residents instead of ignoring them again. Our elderly deserve better. I commend the bill to the House.

Mr BRUCE NOTLEY-SMITH (Coogee) (11:30): I speak in debate on the Public Health Amendment (Review) Bill 2017. Like the original Public Health Act 2010, this bill is about safety. Under the existing Public Health Act there is a rarely invoked authority to make a public health order in relation to a person who has one of the following infections or conditions: avian influenza in humans; Middle East respiratory syndrome coronavirus; severe acute respiratory syndrome; typhoid; or viral haemorrhagic fevers, such as Ebola. These conditions have the potential to cause outbreaks with major implications for the community. Currently a public health order can be made by an authorised medical practitioner only if a person has a condition and is causing a risk to the public.

The amendments in this bill will create a new category of public health orders in relation to people who have come into contact with a person who has one of those infections. The amendments to section 62 will allow an order to be made if the authorised medical practitioner is satisfied that a person has come into contact with a contact order condition, and is also posing a risk to the public. This extends the current requirement—that a public health order can be made only if a person has the condition—to include those people who are potentially incubating the condition and are taking no steps to prevent risk to the public. The bill includes a number of important safeguards, such as setting time limits on contact order conditions, and review of the NSW Civil and Administrative Tribunal.

The Public Health Act 2010 allows authorities to require a person with one of the listed infections to undergo compulsory treatment or even—in extreme cases—be detained. Public health orders are rarely used and would only ever be used as a last resort. That last resort would usually be when a person with an infectious disease posed a threat to other members of the community and refused to change their activities to remove that threat. Only two such orders have been made in the case of human immunodeficiency virus [HIV]. In the past 10 years two orders for tuberculosis have been issued. The amendment proposed in this bill addresses the issue of those people who have come into contact with someone who has one of the named infections.

The bill also amends division 4 of part 5 to remove the ability of a childcare facility to enrol a child who is unvaccinated due to the conscientious objections of their parents. A childcare facility will only be able to enrol a child who is fully vaccinated, who is on an approved catch-up schedule or who has a medical contraindication to vaccination. It will be an offence for a director of a childcare centre not to comply. Certain categories of vulnerable children—such as Aboriginal and Torres Strait Islander children and children in out-of-home care—will still be able to enrol but will have to provide their vaccination documentation within 12 weeks of enrolment. The bill also creates an offence for a person to forge or falsify a vaccination certificate that is provided to a childcare facility to enable the enrolment of the child.

Further, the bill extends the existing provisions applying to primary schools to high schools. This will require principals of high schools to obtain information about a child's vaccination status at enrolment and allow a public health officer to exclude a child with a vaccine-preventable disease or an unvaccinated child from high school during the outbreak of a vaccine-preventable disease. Further, the bill will allow a public health officer to take action to exclude a child from child care or school if the officer believes an unvaccinated child has come into contact with a person with a vaccine-preventable disease, even if there is not an outbreak at the childcare facility or school. This will assist in better preventing outbreaks from occurring.

The bill also amends section 25 to make it an offence for a supplier of drinking water, unless exempted by the Chief Health Officer, to fail to establish or adhere to quality assurance programs. In addition, suppliers of drinking water will be required to provide a copy of the quality assurance program to the Secretary of Health. New section 79 removes the requirement of a person with a sexually transmitted infection—an STI—to notify

their sexual partners before having sex. Instead, the provision has been included making it an offence for a person with an STI to fail to take reasonable precautions against the spread of the STI. The bill also removes the provisions of the Act relating to the Pap Test Register. This is due to the Commonwealth establishing a National Cancer Screening Register, which will take over the State-based Pap test registers. There are some miscellaneous changes to the Act as well. The bill includes a new section 130A to provide that the secretary cannot be compelled in any legal proceedings other than under the Public Health Act to produce information or give evidence in respect of notifications about scheduled medical conditions and notifiable conditions received by the secretary.

The bill amends sections 97 and 98 that relate to the establishment of public health and disease registers to make clear that these provisions do not limit other registers that can be created under the Act, and to allow for regulations to set out additional purposes for which a public health and disease register can be created. The bill amends section 106 to allow the secretary, following a public health inquiry, to direct a person who is responsible for, or has contributed to, a risk to public health to notify persons at risk. Further, the bill will allow a search warrant to be applied for when the secretary is conducting a public health inquiry. The bill will also allow regulations to be made in respect of the payment of fees in relation to functions exercised by local government and authorised officers.

Fortunately, in my lifetime Australia has been spared the all too common outbreaks of deadly diseases that have swept through other communities. The 1918 Spanish flu, which killed millions of people across the world, was probably the most notable.

My father and I have spoken over many years about the polio that wreaked havoc on Australians in the 1930s and 1940s. I remember him telling me about the large number of people in the very small street in which he lived who contracted polio and who were crippled as a result. Diseases like polio are now preventable if there is strict adherence to vaccination programs. Most importantly, this bill will ensure that everyone in our community is vaccinated, particularly our children. We must not have a recurrence of the tragedy that outbreaks of vaccine-preventable diseases cause. I commend the bill to the House.

Mr JAMIE PARKER (Balmain) (11:40): I speak on behalf The Greens in debate on the Public Health Amendment (Review) Bill 2017. I acknowledge the work of the Minister, his staff and the department in drafting this bill, which will significantly improve public health in a range of areas. It is important to acknowledge the work that has been done on miscellaneous issues such as cooling towers, drinking water requirements, and the improved definition of pools. They might seem small issues, but they are important and stem from real-life situations that have highlighted the need for improved legislation to ensure that public health is a priority for not only the Government but also the broader community. We must have clarity and opportunities for everyone to understand the importance of particular issues, especially with regard to drinking water.

A member referred to vaccine-preventable diseases and what happened 100 years ago. We do not need to look back that far; we can simply fly to Papua New Guinea or Myanmar to see the impact of preventable diseases that are almost non-existent in Australia. I have lived and worked in low-income countries, including Myanmar, and I know that the level of immunisation is extremely low and that the level of disease is shockingly high. People in Australia forget that at their peril. Vaccine-preventable diseases, vector-borne diseases and other diseases take an enormous toll on people's lives. We need a solid public health sector and a government that is committed to ensuring those diseases are not prevalent in this State.

That takes me to the issue of vaccination, which is obviously contentious in some parts of our community. It is clear that the benefits of vaccination far outweigh any negatives. I welcome the significant education component in this bill. That is important because we must ensure that facts are put on the table and that myths are not peddled. The Greens had concerns about the lack of that component in the Opposition bill. We should take an education approach rather than a punitive approach to this issue. I acknowledge that the Government has rolled out an advertising campaign focused on busting myths about vaccination, and that is a positive measure. I also welcome the fact that the Act provides that a person with a positive sexually transmitted infection [STI] diagnosis is required to notify their sexual partners and also to take reasonable care to prevent the spread of STIs.

The bill proposes to remove the requirement to notify sexual partners. That is logical and based on the evidence, and it is welcomed in the HIV community because notification has proved to be a barrier to testing. If we are serious about public health, especially in the HIV space, we must promote and encourage testing and not impose any barriers. I also welcome it because it recognises mutual responsibility—that is, each individual should consider and negotiate their sexual practices. That is a positive step forward. Concerns have been expressed about the creation of a new offence in new section 79 on the basis that it may be excessive and disproportionate. A range of community groups working in this sector have questioned the meaning of "reasonable precautions", and it deserves consideration. If this amendment succeeds, there should be education about the prevention of STIs and the importance of regular testing.

"Reasonable precautions" is not defined in the Act—and, interestingly, it never has been. We were told by the department at the crossbench briefing that it could be dealt with by regulation or that it may be decided by the courts. As legislators, we always seek to avoid that option by having statutory definitions to ensure clarity for not only the courts but also the community. The enactment of regulations or allowing the courts to decide has an element of putting the cart before the horse because penalties may be introduced without there being a definition of what is reasonable in respect of each different disease. Departmental officers said that in most cases the use of a condom would be sufficient, except in respect of HIV. In that case, a reasonable precaution may mean that treatment is being undertaken to ensure an undetectable viral load. The legislation does not seem to cover other chronic STIs that can be spread despite the use of condoms—for example, herpes, which can be spread without an outbreak. The legislation must define "reasonable precautions".

As I said, The Greens believe the increased penalties must be the subject of an education campaign to ensure there is a community of understanding about whether using a condom is sufficient to meet the standard required. It has been said that that will be covered in part by doctors informing their patients of when it is safe to have sex again if someone is diagnosed with an STI. However, as I said, some STIs are always at risk of being transmitted. What advice are doctors expected to provide in those situations and who will bear responsibility? While there is a lack of clarity about reasonable precautions in addition to the increased penalties and potential jail time, there is a real risk of this becoming another barrier to testing. Stakeholder groups have raised the fact that there is no need to comply if a person is not tested and they do not know they are infected. In addition, there is no penalty for not meeting the standard of taking reasonable precautions because someone does not know they are infected.

I have had range of correspondence from organisations such as Positive Life NSW, ACON and others stating that STI transmission, including of HIV and viral hepatitis, is a health issue not a criminal issue. The Greens agree. I acknowledge that this bill is the result of a comprehensive consultation process that was undertaken in 2016. I reiterate the concern expressed to The Greens that many of the recommendations, particularly in respect of new section 79, were not reflected in the NSW Health report tabled in Parliament in 2016. The Greens support the bill in principle, but, as I said, we are concerned about that new section. We welcome the vaccination education initiatives and recommend that the Government examine this issue carefully and consider the inclusion of a sunset clause to ensure that there is an early review of the bill.

Ms JODIE HARRISON (Charlestown) (11:49): I contribute to debate on the Public Health Amendment (Review) Bill 2017. The Public Health Act relates primarily to the protection of public health in relation to infectious diseases. The object of the bill is to amend the Public Health Act 2010 as the result of a statutory review of that Act. The 2016 statutory review of the Act was subject to more than 200 submissions. The report found that overall the objectives of the Act remain valid, but it recommended that a new objective be added relating to the monitoring of diseases and conditions. In addition, the report recommended a range of amendments to ensure that the Act can best protect public health. The bill follows on from the review of the Act and from subsequent developments in relation to public health. The bill incorporates two Labor private members' bills: a ban on eyeball tattooing—of which notice was given in the other place—and a private member's bill about the vaccination of children attending childcare facilities, which was introduced by the Hon. Walt Secord.

I will speak on the vaccination provisions in this bill. Vaccination is a cornerstone of public health and continues to be a safe, cost-effective means of effectively preventing suffering caused by once common and fatal illnesses that have wreaked havoc and caused misery in our communities. Measles, tetanus, polio and diphtheria are just some of the diseases that once caused fear, pain, suffering and death but which are now, thankfully, largely controlled in Australia due to the success of vaccination. But not everyone can be safely vaccinated and vaccines are not always fully effective. Young babies cannot be fully protected by vaccination, and some children and adults cannot be vaccinated for medical reasons.

That is why it is the responsibility of anybody without a medical contraindication to be vaccinated and to ensure their children are vaccinated. When we vaccinate all people who safely can be vaccinated, we provide a greater level of protection to those who cannot. The higher the rate of vaccination amongst those who can be vaccinated, the lower the rate of infection among those who cannot be vaccinated safely. Thankfully, a significant proportion of the community fully supports vaccination, as evidenced by the more than 93 per cent of New South Wales children who are registered as being fully vaccinated. However, the rate of vaccination needs to be 95 per cent and above to protect those who cannot be vaccinated.

Disturbingly, there are small groups in the community who not only do not support vaccination but also peddle lies and misinformation about the safety and effectiveness of vaccination. Immunisation data released in June this year showed that just 70.5 per cent of five-year-old children were fully vaccinated in the area encompassing the Sydney central business district, Millers Point, Haymarket, Dawes Point and The Rocks. More than one in four five-year-old children who live in this area —122 in total—have not received all the vaccinations

listed on the National Immunisation Program Schedule. Burwood and Burwood North, in postcode 2481, have the second-lowest vaccination rate, at 72.8 per cent. The Byron Bay area has the third worst vaccination rate, at 73.2 per cent.

When these figures were released Labor's shadow Minister for Health, the Hon. Walt Secord, was quick to call on the State Government to support Labor's tougher anti-vaccination legislation, including removing the conscientious objector provisions in day care centres. The shadow Minister introduced the Public Health Amendment (Vaccination of Children Attending Child Care Facilities) Bill 2017 on 6 April 2017. Contrary to what the member for Myall Lakes said earlier in the debate, the bill before us does adopt the provisions of that earlier bill. From the start, Labor has recognised the importance of maintaining the highest possible level of immunisation in childcare facilities. Childcare facilities can be a breeding ground for the spread of disease due to the number of children in close proximity in a confined space. Children are also not very good at making sure anything that comes out of them when they cough or sneeze does not reach other children.

Mr Brad Hazzard: Some adults have that problem too.

Ms JODIE HARRISON: Indeed, which is why we have a flu epidemic. Herd immunity is especially important in a day care centre. Increasing the proportion of children in child care who are vaccinated will help to protect those who cannot be safely vaccinated or who are not yet fully vaccinated. Currently, one in five children across the world do not have access to life-saving vaccines, which puts them at risk of contracting deadly but preventable diseases such as measles, polio, tetanus and whooping cough. Each year, nearly two million children die for want of a simple vaccination. They often miss out on these life-saving interventions because they live in some of the most isolated communities in the world's poorest countries. Immunisation saves the lives of up to three million children each year, yet one in every five of the world's children still does not have access to life-saving immunisations. Right now, more than 22 million children are at risk of dying from preventable diseases.

The United Nations International Children's Emergency Fund [UNICEF] Australia has shared tragic stories of the suffering of children who do not have access to vaccines. It tells of 14-month-old Joel in Angola, who had measles and who subsequently contracted an associated brain inflammation disease, meningitis. Every few moments his body stiffens and spasms, his face screws up in a grimace from the pain, and—because measles has also made him blind—he rubs at his eyes while staring, unseeing. All this pain and suffering could have been avoided if only Joel had received a vaccination. That is why it is incumbent on us in this place to ensure the best possible vaccination rates in this State. Despite this, and despite how far we have come in getting rid of these preventable diseases in our community, clusters of vaccine refusers are popping up in prominent suburbs across our State. That is just unfathomable to me. In only July this year *Vaxxed* was screened in my electorate. The central premise of *Vaxxed* is that the measles, mumps and rubella vaccine may be leading to an epidemic of autism diagnoses in children.

The Act in its current form provides that principals of childcare facilities must not enrol a child unless they first obtain a vaccination certificate in an approved form indicating that the child is appropriately vaccinated for their age, on a catch-up schedule, has a medical contraindication to vaccination, or has parents who have a conscientious objection to vaccination. When this amendment was made in 2013 the approved forms were the Australian Childhood Immunisation Register history statement and exemption forms. Provisions in the Act allow a principal to enrol an unvaccinated child in child care when their parents are conscientious objectors so long as their parents provided the relevant forms. At the time these provisions were introduced they were in line with Commonwealth requirements relating to certain social security payments, such as the Child Care Benefit.

However, in 2015 the Commonwealth passed the Social Services Legislation Amendment (No Jab, No Pay) Act, which removes the ability of parents who are conscientious objectors to vaccination to receive the Child Care Benefit, Child Care Rebate and the Family Tax Benefit Part A end of year supplement. These changes commenced on 1 January 2016. The Commonwealth amendment required New South Wales to approve a new form in this State to record details about conscientious objectors, being the "Interim vaccination objection form for enrolment in NSW child care centres", which was valid from 1 January 2016 to 31 December 2016. Changes to vaccination and childcare enrolment have been made in other jurisdictions. The Victorian Government recently passed legislation requiring a child to be vaccinated or to have a medical contraindication to vaccination before being enrolled in child care. While this legislation contains a number of exemptions, there is no conscientious objector exemption. Queensland has also amended its legislation to allow a childcare facility to refuse to enrol a child who is unvaccinated.

The bill amends the Public Health Act to bring it in line with other jurisdictions. It will remove the ability of a childcare facility to enrol a child who is unvaccinated due to the so-called conscientious objections of their parents. This bill adopts Labor's plan that a childcare facility will only be able to enrol a child who is fully vaccinated, but sensible exceptions are applied to children who are undergoing treatment such as chemotherapy or those in need of emergency out-of-home care. The bill also allows Aboriginal and Torres Strait Islander people

and guardians of children extra time to provide vaccination records. Vaccination and their availability is a success story of the Australian modern era. Our position on this side of the House has long been clear: We strongly support vaccinations and need to continue to increase the rates of vaccination if we are to protect the public health of all citizens. I support the bill. I particularly support the vaccination provisions in the bill.

Mr MICHAEL JOHNSEN (Upper Hunter) (11:59): I support the Public Health Amendment (Review) Bill 2017 on the basis that good public health policy is necessary to ensure the ongoing safety and health of the people of New South Wales. On some occasions this necessitates the Government taking steps to protect people from the consequences of their own behaviour or decisions. Usually such consequences can be foreseen or at least anticipated. The bill addresses one such area of behaviour. Proposed section 39A of this bill makes it an offence for any person other than a suitably qualified medical practitioner to carry out the niche practice of eyeball tattooing. Eyeball tattooing fascinates me for one reason: I wonder why. I do not believe that legislators should tell people how they should treat their bodies or live their lives. But if people are going to be involved in such practices, the Government and the Parliament have a responsibility to ensure that any procedures of this nature are done safely and with health front of mind.

On the NSW Health website there is a fact sheet on eyeball tattooing. The Royal Australian and New Zealand College of Ophthalmologists advises against eyeball tattooing and views the practice as an extremely dangerous and unnecessary procedure. For those members who are considering it—I doubt any are—I will tell the House what eyeball tattooing is. "Eyeball tattooing" is a term describing the permanent colouring of the white of the eye, called the sclera. It is performed by injecting ink with a needle underneath the top layer of the eye onto the sclera in several locations from where the ink then slowly spreads to cover all of the white of the eye. This procedure is undertaken by only a few tattoo artists around the world. People need to understand that unlike other tattooing it is permanent and non-reversible.

The Royal Australian and New Zealand College of Ophthalmologists considers eyeball tattooing a high-risk procedure and recommends that it only be performed by a doctor when medically indicated, such as for specific eye abnormalities. The college advises against eyeball tattooing for cosmetic purposes as it is an extremely dangerous and unnecessary procedure. Some of the known risks of eyeball tattooing include perforation of the eye which can lead to blindness; retinal detachment; infections; the transmission of blood-borne viruses such as hepatitis B and C and HIV, generally from equipment that is not cleaned properly; bleeding and infection at the injection sites; delayed diagnosis of medical conditions as the true colour of the sclera is now hidden—for example, jaundice is often a first symptom for many diseases; adverse reactions to the ink; sensitivity to light; and staining of the surrounding tissue due to ink migration.

As I said, for the life of me I do not know why anyone, for cosmetic reasons, would even consider eyeball tattooing. However, it is a person's choice and I support the part of the bill which requires that only qualified specialists or medical practitioners can perform the procedures. I believe that medical practitioners would be averse to carrying out such a practice for cosmetic purposes and would do it only for the health and safety of a patient. I would like to touch on the issue of vaccinations. Many members in the House and many people in the community know about Rotary Australia and Rotary International and their longstanding campaign and fundraising efforts for the eradication of polio. I believe that there are now only 85 cases of polio in the world, and all of these cases are in Pakistan. The significant difference in the number of people suffering polio has come about purely because of vaccination. Through the decades, parents have been responsible enough to recognise the insidious nature of polio and other diseases and the unnecessary impact that those diseases have on children and the wider health of society.

I take exception to a certain section of our community who believe that vaccination is a problem in itself. I do not believe that the anti-vaxxers, as they call themselves, have the interests of their children at heart with regard to vaccinations. Nor do I believe that they have at heart the interests of the wider public. If the anti-vaxxers had their way, we would have a lot more than 80-odd cases of polio in the world today. There would be literally hundreds of thousands of people suffering, completely and utterly unnecessarily, from polio. The provisions of this bill will mean that children who go to preschool must be vaccinated. This will protect their own health and also the health of other members of the preschool community with whom they come into contact.

As was mentioned before, and we all understand, it is not just children who inadvertently spread disease through human contact, sneezing, coughing, and shaking hands; adults and people of all ages do it. As responsible members of our community, everyone must do everything to keep themselves, their families and their households safe. We must keep the health and safety of the wider community front of mind. I fully support the bill. I ask anyone who is considering eyeball tattooing to reconsider their reasons for doing so. I am not making a judgement; I am just asking them to consider why they would want to do it. More importantly, I ask the anti-vaxxers to consider the health of their children and their families, members of their local communities and the good health of our society. I commend the bill to the House.

Mr ALEX GREENWICH (Sydney) (12:08): The Public Health Amendment (Review) Bill 2017 makes a number of amendments to laws surrounding public health following a statutory review of the Public Health Act 2010. My contribution will focus on changes to the State's response to sexually transmitted infections on which the bill takes some forward steps and some concerning steps. On a positive note, the bill removes the need to de-identify an HIV test request form. I understand that this will help clinicians know whether an HIV test has been ordered. That is important when there is more than one clinician involved in the care of a patient. Each clinician should be able to know what tests have been ordered so that tests are not repeated, or, worse, that tests are left undone because it is assumed they have already been ordered. Although we no longer see advertisements with a grim reaper inciting fear of people with HIV and AIDS, the stigma associated with the conditions has not disappeared.

I welcome the Government's decision to continue to require that positive results be de-identified.

I support the provisions in the bill that remove the current requirement for persons with a sexually transmitted infection [STI] to notify sexual partners of their STI status. No other State or Territory has these disclosure laws, which fail to acknowledge the shared responsibility of practising safe sex to prevent the spread of infections as well as increase stigma and provide a disincentive for being tested. However, there are some concerning elements of the bill. Unfortunately, the Government is considering making it a criminal offence for someone with an STI to not practice safe sex, with excessive penalties of up to $11,000 or six months in prison. Sexually transmitted infections are a health matter. Making them a criminal matter will have serious consequences and add to stigma and discrimination.

The threat of criminal sanctions could discourage people with an STI from contacting former partners to tell them of their STI status. Alarmingly, being tested will be less attractive because a positive result would create the potential for criminal consensual sex. More people could be captured by the already overburdened criminal justice system, especially young people, people from culturally and linguistically diverse backgrounds, Aboriginal people and drug users. There is no evidence that these changes are needed. The spread of sexually transmitted infections is no more widespread than are other infections to warrant criminal justice intervention. Most STIs are quickly and painlessly treated with antibiotics. HIV treatment can achieve viral suppression so that most people living with HIV are undetectable and the virus is not transmittable. People with a positive STI status are less likely to pass on their infection. Existing laws in the Crimes Act already deal with someone who intentionally or recklessly puts others at risk.

The highest risk of infection comes from people who have not been tested and who do not know their STI status. They may be less likely to practise safe sex because they do not know they are infectious, or they may be more infectious because they have a higher viral load and have not started viral suppressant treatment. The focus must be on early testing and this is not promoted under a model that criminalises sex in private relationships between consenting adults when someone has knowledge of their STI status. New South Wales should be proud of its response to HIV and AIDS. Contracting HIV is no longer a death sentence, and the rate of infection in the State has been stable for the past decade. The number of people dying or having serious health crises has decreased significantly. Health services no longer need to provide dedicated wards for people with HIV-defined illnesses, and most health services have integrated their responses to HIV into broad health services.

Massive advances in treatment and understanding of how to prevent transmission of the HIV virus have been made. These advances mean that the lives of people with HIV are almost the same as the rest of the population. Early treatment can reduce the presence of the HIV virus in the body and help prevent HIV-related illnesses, as well as transmission to others. New South Wales did not become a world leader in HIV prevention and treatment through criminal sanctions. We did it through a health-based approach and we must continue with this approach if we want to reach our target of ending HIV transmissions by 2020. It is also important to acknowledge the work of the current Minister for Health and indeed the former Minister of Health, which has led the way in the approach adopted by New South Wales towards HIV and AIDS and the wonderful goal that is in sight: ending HIV by 2020.

I also acknowledge the work of the AIDS Council of New South Wales [ACON], who raised some of the concerns I have mentioned during my speech. I foreshadow that I will move an amendment at the consideration in detail stage to require a review in two years of new section 79 in schedule 1, item [32]. That will provide the Government with an opportunity to assess whether there have been any adverse impacts on rates of STI testing. The Act will be reviewed in five years, which I believe is too late, particularly if criminal sanctions impact negatively on the spread of HIV.

Ms MELANIE GIBBONS (Holsworthy) (12:13): I join in debate on the Public Health Amendment (Review) Bill 2017 and note that the bill has been introduced as a result of a review of the Public Health Act 2010 conducted in 2016 by the Ministry of Health. The review was designed to ascertain whether the objectives of the 2010 Act remain valid and the provisions remain appropriate. This bill will implement recommendations of the

review. The bill addresses a wide range of issues. I will focus on the Pap Test Register provisions that constitute a significant change for women because Pap tests will be dealt with differently in the future. Those provisions are very sensible because the register will be kept by the Commonwealth rather than each State maintaining separate registers. That is particularly important for people who move interstate, as many of us do and as I did for a year. It is convenient to know that the register will apply nationally and will be kept in one central place.

One of the many ways in which the community is kept safe is through the Pap test for women. Most women undergo screening for cervical cancer every two years through the Pap test. The majority of those tests are conducted by general practitioners. Each time I visit my doctor, her first question usually is, "When was your last Pap test?" It is good that she can quickly look that up. I usually do not want to admit how long ago it was because I actually do not relish having it done. However, it needs to be done and it is important to have it done. Pap test screening is a vitally important program. It reduces illness and deaths resulting from cervical cancer in our community. The Pap Test Register is an important register and has been maintained by the New South Wales Cancer Institute on behalf of NSW Health. Currently the Public Health Act 2010 includes provisions relating to the establishment and management of the register.

Following a review of the evidence for cervical screening and better technology, the Commonwealth Medical Services Advisory Committee recommended moving to a new cervical screening test. While the current Pap test can detect abnormal cell changes, the new cervical screening test will detect the human papilloma virus [HPV] infection which can cause abnormal cell changes prior to the development of cancer. This is an important innovation concerning an illness that many women do not know they have until it is far too late. The new test is more accurate than the Pap test in detecting precursors of cervical cancer. The procedure for collecting a sample for the new cervical screening test is similar to the procedure for having a Pap test. For a female, nothing will particularly change. A sample of cells will be tested for the high-risk HPV types. If the human papilloma virus is detected, cells in the sample will be automatically examined to look for any abnormalities. The results will be used to inform further testing and/or clinical management.

A new National Cancer Screening Register also will be established to hold cervical and bowel cancer screening records. As I stated earlier, the Commonwealth register will replace the State and Territory Pap Test Registers. From 1 December this year the National Cervical Screening Program will introduce changes to the target age group, frequency and type of screening tests that will be administered. However, it is important that in the meantime women continue with the biennial cervical screening tests. A new national register will provide additional benefits as it also will apply to cancers other than cervical cancer. Importantly, it will ensure that women who move interstate are not lost in follow-up, which is particularly important. There is nothing worse than trying to get all your records back together again.

As the Commonwealth will establish the national register, retaining the Pap Test Register provisions in the New South Wales Public Health Act will result in duplications in notifications to both the Commonwealth and New South Wales. There is really no need for that. Therefore, the bill removes provisions in the Act relating to the Pap Test Register. Those provisions will take effect when New South Wales has formally opted into the National Cancer Screening Register and once the national register has commenced. I am sure the Minister has those measures underway. I take this opportunity to discuss vaccines and in particular changes to childhood education vaccination provisions. Recently released figures for Liverpool show that 94.1 per cent of our children are fully immunised.

That still leaves 5.9 per cent who are not vaccinated. That is too many children and young people who are unvaccinated and at risk. The little ones who are in between the first dose of their shots and their booster shots are particularly at risk. The *St George and Sutherland Shire Leader* recently alerted the community of a measles outbreak following a person's week-long journey around the Sutherland shire. It is a scary time for a lot of young mums who are trying to remember whether their child who has not had all their vaccinations was at Miranda Westfield when the infected person was there.

It is important that as a community we do everything we can to ensure that we are all vaccinated so that those who cannot be vaccinated or have not yet been able to be vaccinated are protected as much as possible. I was pleased to see the changes in the legislation that prevent unvaccinated children from being enrolled in child care when the child is unvaccinated due to the conscientious objection of the parents. Those parents can object but they should not put other children at risk. It is not appropriate or fair. I took my little one to day care when she was four months old and had not had all of her shots. She is due for the remainder of her shots in about three weeks time. It is daunting for parents to hand over their little precious bundles knowing that there could be an unvaccinated children present. As parents, we want to protect their children. I am pleased that the Government has taken on that responsibility as well by ensuring that these places are safe.

Overwhelming scientific evidence shows that vaccination is safe. We all know that now, or we all should. Vaccination is highly effective in preventing disease and it needs to be done. It is an important message to send

that vaccination helps reduce the transmission of diseases. The Liverpool area has a high rate of chickenpox outbreaks, particularly due to people visiting family members who have not been immunised. It is particularly important that our young ones are vaccinated. I notice everybody started scratching the moment I mentioned chickenpox. Maybe it would help if I mention the word "nits". It is particularly important that we look after our young ones.

I will briefly mention the "Save the Date to Vaccinate" campaign, which comprises a brilliant phone app that sends reminders. It would be good if the reminders were sent a week or two before the vaccination is due so appointments can be booked rather than needing an appointment there and then. But it is a great little reminder that vaccinations are due. No parent likes taking their child to get their shots. It is horrible, but it needs to be done. Parents are doing the right thing by vaccinating their children, thereby ensuring that they are safe and looked after. I commend the bill to the House and thank the Minister for making these important changes which will make a difference for the future health of our community.

Mr RON HOENIG (Heffron) (12:22): I contribute to the debate on the Public Health Amendment (Review) Bill 2017. I note that the Opposition will not oppose the bill but will seek to make some worthy amendments. The bill is a result of a 2016 statutory review of the Public Health Act 2010, which was the subject of a great number of submissions. As an omnibus bill, the proposed legislation makes a variety of alterations to the Public Health Act with respect to drinking water, eyeball tattooing, and legionella prevention measures, and proposes amendments to section 79 of the Act, which deals with obligations for persons who carry sexually transmitted diseases and who are engaged in sexual activity. Some amendments contained in this bill are more controversial than others. While Government members in the other place previously deigned not to support the shadow Minister for Health, the Hon. Walt Secord, when he attempted to ban eyeball tattooing and support vaccination in childcare centres, they now find themselves supporting these very same initiatives in this bill.

This bill is something that I would have expected from the current Minister for Health, who, in his other portfolios, was always prepared to accept a good idea irrespective from whence it came. The Public Health Act 2010 is a fine piece of Labor legislation. Its objectives are: to promote, protect and improve public health; to control the risks to public health; to promote the control of infectious diseases; to prevent the spread of infectious diseases; and to recognise the role of local government in protecting public health. The Labor Party has always put the health of Australians first and pioneered Australia's healthcare system to what it is today. From the introduction of the Pharmaceutical Benefits Scheme [PBS] in 1947 by the Chifley Government to the publicly funded universal healthcare system Medibank in 1974 by the Whitlam Government, to the universal healthcare system Medicare by the Hawke Government in 1984, and to the introduction of the National Disability Insurance Scheme by the Gillard Government, Labor has ensured that all Australians have the highest quality of life and care available.

When I was a young boy, Australia had just emerged from the worst polio epidemic in its history. Thousands of Australian children were diagnosed with polio every year. Polio claimed the lives of over a thousand Australian citizens and crippled many more in the decade to 1955. Before that, diphtheria and whooping cough claimed thousands more lives and smallpox killed nearly half a billion people around the world in the twentieth century. Polio has been officially eradicated from Australia since 2007. Just recently, India was declared polio free. If all goes according to plan, next year the world will be polio free, with the scourge completely eradicated by 2018. This is no accident of history. Polio, like smallpox, has been eradicated thanks to vaccination.

Jonas Salk's original polio vaccine and Albert Sabin's later improvement have saved the lives of many millions of people and have contributed to a vast improvement in the lives of potentially hundreds of millions of others. The immunology of vaccination predates all modern pharmaceutical companies and their history stretches back to the first inoculation by Edward Jenner in 1796 against the variola virus, also known as smallpox. Regrettably, a particular strain of thought about vaccination has arisen in some Australian communities. These people deny the efficacy of vaccination, ignore or distort the evidence, and create wild conspiracy theories to justify why, when vaccines are supported so firmly by the medical establishment and governments of all types, only they are burdened with the truth about vaccination.

Astonishingly, vaccine-preventable diseases are coming back. Whooping cough is not uncommon, especially in communities with low or very low vaccination rates. This is not always as a consequence of poverty or lack of access to health care. Early last year, a measles outbreak occurred in the well-to-do Melbourne suburb of Brunswick. The National Health Performance Authority has declared blue ribbon suburbs like Mosman, Manly, and the northern beaches at risk of vaccine-preventable disease outbreaks. Even in my electorate of Heffron, vaccine rates in suburbs such as Rosebery have fallen below the 85 per cent mark. That is a grave danger. I fear the only thing that will wake us up to the dangers of their views is a young child being killed by polio, a disease eradicated in this country a decade ago and that ceased to be a serious public health concern many decades ago. In the literature, these people are referred to as "conscientious objectors". This phrase, like its colleague "climate

sceptic", is far too generous to the antediluvians that it describes. They are anti-vaccination; they are anti-vaxxers. Conscientious objectors refused to go to Vietnam to kill those with whom they had no quarrel.

Anti-vaxxers refuse to undertake a safe and sensible procedure that saves lives, prevents disease and contributes to a higher quality of life for themselves, their children, and those around them. There is nothing conscientious about their refusal. The shadow Minister for Health, in the other place, moved an amendment to the Public Health Act 2010, which this bill now contains also, to prevent anti-vaxxers from endangering the lives of those who are immunocompromised or may have medical contraindications to a particular vaccine. Schedule 1, items [38] and [39], would prevent children who are not vaccinated from being enrolled in a childcare facility, if the only reason for their vaccination status is a belief held by the child's parents, and if they are not on an approved catch-up schedule or do not have a medical contraindication to the vaccine. Those sections also make it an offence for a director of a childcare centre to permit children to be enrolled without receiving a vaccination certificate or a medical certificate, and to store that information accordingly, with penalties of up to $5,500.

Ensuring that all children who are able to be vaccinated, are vaccinated, is integral to protecting the health and wellbeing of children who, for one reason or another, are unable to be vaccinated. Vaccine-preventable diseases are substantially less likely to occur in populations with vaccination rates of 95 per cent or above. Around 4 per cent of the population has a valid medical reason to refuse vaccination due to allergy or other contraindication. The Federal Coalition Government implemented the "No Jab, No Pay" policy in 2014, which removed eligibility for Family Tax Benefit A from parents of unvaccinated children in 2016, and subsequent policy changes were made in New South Wales to restrict early childhood centres from enrolling unvaccinated children. That amendment has seen a 3 per cent increase in the immunisation rate for one- to five-year-olds—from 90 to 93 per cent. At July 2016, nearly 6,000 children whose parents had listed themselves as vaccine objectors had been consequently immunised.

Nearly 150,000 children have also had their vaccination schedule brought up to date as a consequence of the Commonwealth Government's changes. These amendments are supported by the amendment moved to the Public Health Act by the shadow Minister for Health and contained within this bill. It is my duty and that of my Labor colleagues to legislate for positive health outcomes for everyone in New South Wales, which includes encouraging the use of vaccinations for vaccine-preventable diseases [VPDs]. The amendment does not seek to remove parental consent or to forcefully inject children, but seeks to prevent the spread of VPDs in the event of an outbreak within those populations most at risk; that is, unvaccinated, medical contraindicated, and immunocompromised children. [*Extension of time*]

It is the role of legislators to protect those children, particularly those who are unable to be vaccinated for various medical reasons. The research surrounding the efficacy and safety of each vaccine on the National Immunisation Program [NIP] Schedule is evident and is reported in various peer-reviewed journals, including *Vaccine*, the *Lancet*, and the *British Medical Journal*, to name a few. Since the introduction of childhood vaccination in Australia in 1932, deaths from VPDs have fallen by 99 per cent, with the population increasing threefold in the same period. The health and quality of life that Australian citizens enjoy today is evidence in itself of the long-term health outcomes of the combination of proper sanitation, pharmaceutical medications and antibiotics provided by the Pharmaceutical Benefits Scheme [PBS], universal health care, and a thorough vaccination program.

The NIP has been under constant review since its introduction, and vaccines have been added and removed as new scientific evidence becomes available. The vaccines currently in use in the NIP have undergone rigorous four-phase clinical trials to ensure their safety. While it may be true that vaccines are not 100 per cent safe, the majority of the less than 1 per cent who do have an adverse event, experience only minor symptoms like fever, injection-site swelling or rash, with symptoms lasting less than a week. A helpful analogy is that, while a seatbelt may give a person whiplash in the aftermath of a car accident, at least it saved their life. Vaccines that are unsafe rarely leave phase one clinical trials and are almost impossible to pass through phase two and phase three clinical trials.

The legislation before us today does not apply to children who are immunocompromised or who have medicine contraindications to a particular vaccine. There is still a long way to go in the fight against vaccine-preventable diseases and for many of these infectious pathogens, like poliovirus, for which the only cure is vaccination prior to infection to prevent the lifelong disability that accompanies the disease. The bill before us today is one such example. I am advised that the shadow Minister for Health seeks to make a number of amendments to the bill, with respect to the sexually transmissible infection [STI] and other disease orders and public health orders two years from the commencement of this bill to examine their efficacy and opportunities for future reform. The Opposition will also request that the Secretary of the Department of Health publish annually the number of public health orders with precision as to the disease category, rather than composite figures. I am pleased to support those amendments and the bill, subsequent to those amendments.

Mr JOHN SIDOTI (Drummoyne) (12:36): The Public Health Amendment (Review) Bill 2017 makes a number of changes to the Public Health Act 2010 following a recent statutory review of that Act and other developments in public health. Members can be assured that these changes will be very effective. I have confidence in the Minister for Health, who is doing a wonderful job, including in my area in relation to Concord Repatriation General Hospital. Members of my community are forever grateful for the $341 million upgrade to Concord hospital that was announced as part of the budget. The New South Wales Government is committed to protecting the community from vaccine-preventable diseases. Changes to the Public Health Act were introduced into the Parliament on 10 August this year to strengthen the childcare enrolment requirements in relation to immunisation. The changes prevent unvaccinated children from being enrolled in child care, where the child is unvaccinated due to the conscientious objection of their parents. This amendment will reinforce the overwhelming scientific evidence that vaccination is safe and highly effective in preventing disease.

The Prime Minister wrote to Premiers in March this year calling for a national approach to the removal of conscientious objection to vaccination for children in child care, which is sensible. Our Government will continue to work with the Commonwealth Government on this very important matter. Excluding unvaccinated children from attending child care will do a number of things. First, it will send a very strong public health message about the importance of vaccination. Secondly, it will reinforce the overwhelming scientific evidence that vaccination is safe and highly effective in preventing disease. Thirdly, it may help to reduce the transmission of disease in certain geographical areas. Removing this exemption will align with the Australian Government's "No Jab, No Pay" measures, under which certain childcare and Family Tax Benefits are dependent on a child being vaccinated. Importantly, the vast majority of children will not be affected by the changes referred to as more than 93 per cent of children in this State are already fully vaccinated at five years of age.

While this Government supports early educational opportunities for children, it is also very important to support vaccination in order to protect those children who cannot be vaccinated for very legitimate reasons. For example, some children are too young to be vaccinated and some others have a legitimate medical reason not to be vaccinated. Our Government does not consider it appropriate to allow parents who choose not to vaccinate their children to place others at risk. While children who are not vaccinated due to the conscientious objections of their parents will be unable to enrol in child care, the Government does recognise that there may be some groups in the community that have difficulties in producing vaccination records at enrolment.

These groups include children in emergency out-of-home care or a child who has been evacuated during a state of emergency. These groups will have a grace period of 12 weeks to produce vaccination records. In addition, the bill amends the public health regulation to extend the 12 week grace period to Aboriginal and Torres Strait Islander children and all children in out-of-home care. Yesterday there were parents in Martin Place protesting about this legislation. They have probably got their hearts in the right place, but unfortunately not their heads. I understand their right to protest but I disagree with their arguments.

Mr Brad Hazzard: The evidence is not with them.

Mr JOHN SIDOTI: As I have said, we fully back the science. The amendments extend the Government's existing efforts to protect our communities from these very preventable diseases. Many once common diseases of childhood are no longer seen in New South Wales and with the continual upgrading of the vaccination program we are seeing new population-wide benefits of vaccination across the State. The "Save the Date to Vaccinate" campaign commenced in 2013 to provide parents with key messages about the importance of timely vaccination. It includes a very popular phone application—referred to by the member for Holsworthy—that reminds parents when their children's' vaccinations are due. There was also the 2017 campaign which included television, print, digital and social media components.

The Government has also rapidly responded to evidence of the emergence of a new strain of meningococcal disease, meningococcal W. On 1 May 2017 the Government funded the meningococcal W response program that commenced offering vaccinations to approximately 180,000 senior secondary students this year. In 2015 the Government funded the whooping cough vaccine for all pregnant women at a cost of around $2.5 million per year. I am happy to support this bill. The Minister is doing great work in the Health portfolio in this State, which is a very challenging area. At any one time there could be a health emergency in the many public institutions. His heart is in the right place. He is very sympathetic and humane and is doing a very good job in a very challenging environment.

The bill amends section 3 to provide that an object of the Act is to monitor diseases and conditions affecting public health. This will ensure that the object is better aligned with the functions under the Act. The intention of the bill is to try to get as many people immunised as possible. Currently 93 per cent of children in New South Wales are vaccinated. But we do not want all the good work to come undone because of a small number who are not vaccinated. There are some legitimate reasons not to immunise. We understand that but people should not use those reasons to choose not to immunise. The good work is being done by the vast majority

to eradicate diseases that can be dealt with by immunisation. Science has proved that the more people we immunise the better. Certain conditions that were epidemic years ago are very curable and preventable now. With as many people as possible immunised, many of the ailments we face today will be a thing of the past. I commend the Minister for Health and I commend the bill to the House.

Mr BRAD HAZZARD (Wakehurst—Minister for Health, and Minister for Medical Research) (12:44): In reply: I thank all honourable members who contributed to this very significant debate on the Public Health Amendment (Review) Bill 2017. The member for Port Stephens reviewed various aspects of the bill and was generally supportive. The member for Terrigal spoke in particular about vaccination and was extremely focused, and importantly so, on vaccination in childcare facilities. The member for Campbelltown focused on the very significant issue of vaccination in child care, and eyeball tattooing. The member for Myall Lakes raised issues with childcare vaccination and the provision of nurses for high-care patients. I emphasise that in that regard we have had previous debate in this place.

We need to acknowledge and remember that the Federal Government has changed the definition of what are commonly called nursing homes and such facilities are no longer classified as either high care or low care. It is now a matter of each individual facility ensuring that if they have high-care patients they have the appropriate staff, and that would almost certainly include a registered nurse. In other areas, in particular in regional areas, where they may not have high-care patients they may choose to have other staff to provide outlets for the residents, such as outings, so that they are enjoying aspects of their life. They may choose to have physiotherapists, occupational therapists or music therapists, who may be more appropriate in their particular facility.

The member for Summer Hill spoke about a number of aspects of the bill. In particular, she acknowledged the importance of vaccination in child care and considered the concerns of some of the stakeholders with section 79. I understand those concerns and there have been some discussions this morning about the Labor opposition—and possibly the member for Sydney—moving amendments. There have been some collaborative views on that, which I will address in due course if they are moved. I understand and am sympathetic to their concerns. The member for Seven Hills spoke about the bill's overall approach ensuring the safety of the community in a number of areas, including vaccination and eyeball tattooing.

The member for Lake Macquarie was very supportive of most of the bill but in particular was concerned about section 79. I think he referred to it as being a regressive step. I understand his views, although I do not agree with him. Hopefully, we may be able to find some sensible middle ground on that through some amendments that I understand will be moved by the member for Sydney after collaboration with the Opposition, and indeed discussions with me. If we can offer that to him I hope he will not oppose the bill and perhaps may even support it.

I appreciate the member for Riverstone's concerns about vaccinations. The member for Orange mentioned nursing homes, and I have explained that. The member for Balmain raised a number of issues, including reasonable precautions with section 79. The member for Charlestown raised a number of issues.

I thank the member for Coogee, who focused on public health orders. They may be subject to review, which is being discussed with the member for Sydney. I note that the Opposition sought the Government's agreement on that issue. I thank the member for Upper Hunter for his detailed consideration of the bill, particularly in relation to eyeball tattooing.

The member for Sydney has been constructive and positive and has discussed a number of issues with me on behalf of the community. He has foreshadowed amendments to proposed section 79 and proposed section 62. I thank the member for Holsworthy for her timely comments about the national register for pap smear tests. Of course, there will be changes to the process and the recording of the outcomes. It certainly makes a lot of sense to have a national register. It was not mentioned that hopefully it will not be as important for our young people in future because immunisation with Gardasil and its variants of young women commenced in 2007, and of young men a few years later. That is making a huge difference to the likelihood of human papilloma virus infection in young people. I thank the member for Heffron for his comments about vaccination and the other issues he canvassed. The member for Drummoyne particularly focused on vaccination issues.

There is no doubt that the Public Health Act is an important piece of legislation for the community. It is the primary public health legislation and it is vital that it remain up to date and relevant to ensure that it can protect the community from serious public health risks. The recent review of the Act found that it was working well, but that a range of changes could be made to better protect public health, and the Government has responded in a number of areas. As almost every member who spoke in this debate noted, the Government has moved to strengthen childcare enrolment requirements with regard to vaccination.

The Government has also clarified provisions dealing with the cleaning and maintenance of water cooling towers to guard further against outbreaks of Legionnaires' disease. It has also restricted the practice of eyeball tattooing to appropriately qualified medical practitioners. I met with a number of medical practitioners and there was no question that they were concerned about unqualified people thinking it is acceptable to undertake such a procedure. It is not. If we need to be reminded about how dangerous it can be when unqualified people carry out such procedures we need only think about the recent terrible death of a woman as a result of a so-called cosmetic procedure undertaken in a beauty salon. We must be extremely cautious about matters that can affect our health and potentially our lives.

This bill amends the definition of "skin penetration" to include procedures that involve the penetration of a mucus membrane. It also replaces an existing section of the Act that requires a person to inform potential sexual partners if they have a sexually transmitted infection with a new section requiring a person with an STI to take reasonable precautions against spreading the disease or condition. The Government has extended the rarely used power to make public health orders to include people who come into contact with someone with a listed infectious disease. It has also extended the responsibilities of local government authorities to ensure further that private water suppliers and water carters comply with safety requirements.

I understand that the Chamber will be dealing shortly with an amendment to be moved by the member for Sydney. As I said, the amendment deals with proposed section 79 and public health orders in proposed section 62. I acknowledge that the Opposition and the member for Sydney had similar concerns and that the amendment relates to those concerns. The Government believes that we should work collaboratively on public health issues. If the amendment is as I anticipate, it is likely the Government will agree to it because I think it involves a logical review. I confirm that the bill before the House seeks to make changes to ensure the Public Health Act operates effectively. Accordingly, I commend it to the House.

TEMPORARY SPEAKER (Mr Lee Evans): The question is that this bill be now read a second time.

Motion agreed to.

Consideration in detail requested by the Mr Alex Greenwich.

Consideration in Detail

TEMPORARY SPEAKER (Mr Lee Evans): By leave: I shall propose the bill in groups clauses and schedules.

Clauses 1 and 2 agreed to.

Mr ALEX GREENWICH (Sydney) (12:56): I move amendment No. 1:

No. 1 **Review of amendments relating to public health orders and sexually transmitted diseases**

Page 11. Schedule 1. Insert after line 6:

[58] Section 136

Omit the section. Insert instead:

136 Review of amendments made by the Public Health Amendment (Review) Act 2017

(1) The Minister will review the amendments made to section 62 and Division 1 of Part 5 by the public *Health Amendment (Review) Act 2017* to determine whether the policy objectives of those amendments remain valid and whether the terms of those provisions as amended remain appropriate for securing those objectives.

(2) The review is to be undertaken as soon as possible after the period of 2 years from the commencement of the amendments to section 62.

(3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 2 years from the commencement of the amendments to section 62.

New South Wales is a world leader in the treatment and prevention of sexually transmitted infections, particularly HIV and AIDS. This has been achieved through a health-based approach that has encouraged frequent testing,

early treatment and safe sex practices. I share the concern expressed by the STI sector that amendments in proposed section 79 risk undermining that achievement by discouraging people at risk of contracting an STI from being tested. I know that is not the Government's intention, so it is vital these changes are monitored to ensure we maintain our high rate of testing.

This amendment provides for a review of the new provisions two years after they commence ahead of the five-year review of the entire Act. This is an important part of achieving our goal of no HIV transmissions by 2020. The amendment is similar in substance to those flagged by the Opposition and followed discussions with the Minister. In supporting the amendment, this Parliament is continuing its multi-partisan approach to the prevention of HIV and AIDS and supporting those with those conditions. The amendment provides for the Minister to review section 62 and, as flagged, section 79, which is in division 1 of part 5 of the Public Health Amendment Act, to determine whether the policy objectives remain valid and whether the terms of the provisions, as amended, remain appropriate for securing those objectives. I commend the amendment to the House.

Mr BRAD HAZZARD (Wakehurst—Minister for Health, and Minister for Medical Research) (12:58): As I indicated during the second reading debate, I understand the concerns expressed by some in the community about the Government's approach to proposed section 79. From the Government's point of view, it strikes a balance. It is very different from the previous provisions in regard to persons who have a sexually transmitted disease such as HIV. However, I stress that as long as an individual takes reasonable precautions they should be absolved from any obligations and any likely legal consequences.

In the Government's view, there needs to be some way to ensure that people who have a sexually transmissible disease [STI] take reasonable steps or precautions so that it less likely that they will transmit that disease. Earlier today, a member queried what would be considered as reasonable precautions. It was suggested that reasonable precautions may have to be determined by a court. If the viral load is very insignificant it is arguable that you may not have to use, for example, protection such as a condom. Equally, it is logical and sensible—as in all sexual practices—to use a condom. That should be the starting point. Hopefully that will be considered as a reasonable precaution, and I think it will be.

With regard to the amendment moved by the member for Sydney, I know from discussions with him and other Opposition members that they share a similar view. The Government is inclined to accept the amendment on the basis that there is a genuine concern about the provisions that are being inserted into the legislation at section 136, section 62, and division 1 of part 5. We will not oppose the amendment. In respect of section 62, the bill will create a new category of public health orders in relation to persons who have come into contact with a "contact order condition". A contact order condition is one of the following conditions: Avian influenza in humans, Middle East Respiratory Syndrome [MERS] coronavirus, severe acute respiratory syndrome, typhoid or viral haemorrhagic fevers such as Ebola.

Currently a public health order can be made only by an authorised medical practitioner if a person has a condition that is causing a risk to the public. The proposed amendments to section 62 represent a significant shift in the powers of authorised medical practitioners to make a public health order. Under the bill, a medical practitioner would be able to be make and authorise a public health order if they are satisfied that the person has come into contact with a contact order condition and is posing a risk to the public. This is a more subjective test than the current requirement that a public health order can be made only if the authorised medical practitioner is satisfied the person has a condition.

The bill includes a number of important safeguards such as setting time limits on contact order conditions and requiring a review by the NSW Civil and Administrative Tribunal. However, the Government agrees that the proposed amendment to section 62 represents a significant shift in policy that could interfere with people's liberty. A review of the new provisions after two years would be appropriate and helpful. In respect of division 1 part 5, the bill also proposes a significant policy change in removing the current requirements in section 79 that persons with a sexually transmitted infection notify their sexual partner prior to engaging in sex. The bill instead introduces new requirements on persons with an STI to take reasonable precautions against the spread of the disease. The Government thinks it is appropriate to conduct a statutory review of the provisions after two years. In the circumstances, the member's amendment is accepted and supported.

TEMPORARY SPEAKER (Mr Lee Evans): The member for Sydney has moved an amendment to schedule 1. The question is that the amendment be agreed to.

Amendment agreed to.

TEMPORARY SPEAKER (Mr Lee Evans): The question is that schedule 1 as amended be agreed to.

Schedule 1 as amended agreed to.

TEMPORARY SPEAKER (Mr Lee Evans): The question is that schedule 2 be agreed to.

Schedule 2 agreed to.

Third Reading

Mr BRAD HAZZARD: I move:

That this bill be now read a third time.

Motion agreed to.

LEGISLATIVE COUNCIL
Wednesday, 13 September 2017

Bills

PUBLIC HEALTH AMENDMENT (REVIEW) BILL 2017

First Reading

Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Don Harwin.

The Hon. DON HARWIN: I move:

That standing orders be suspended to allow the passing of the bill through all its remaining stages during the present or any one sitting of the House.

Motion agreed to.

The Hon. DON HARWIN: I move:

That the second reading of the bill stand as an order of the day for a later hour.

Motion agreed to.

Bills

PUBLIC HEALTH AMENDMENT (REVIEW) BILL 2017

Second Reading

The Hon. SCOTT FARLOW (17:21): On behalf of the Hon. Niall Blair: I move:

That this bill now be read a second time.

I am pleased to bring before the House the Public Health Amendment (Review) Bill 2017, which seeks to amend the Public Health Act 2010 following a statutory review of that Act and subsequent developments in public health since that review. The Public Health Act passed Parliament in 2010 and aims to protect and promote public health, and control the risks to public health. The Act deals with a range of public health matters such as powers during a public health emergency, notification of diseases and conditions to the health secretary, vaccination enrolment requirements in childcare facilities and primary schools, and the regulation of a number of areas that have the potential to affect public health, such as drinking water, skin penetration and public swimming pools. In 2016, a statutory review of the Public Health Act was undertaken by the Ministry of Health to determine whether the objectives of the Act remain valid and whether the provisions of the Act are appropriate for securing those objectives.

As part of the review, the ministry released a public discussion paper to seek submissions from stakeholders and members of the public. More than 200 submissions on the discussion paper were received from members of the public and from stakeholder organisations. I thank members of the public and those organisations for their thoughtful contributions to the review of the Public Health Act, which were considered in preparing the final report on the review. The report on the review was tabled in Parliament in November 2016. The report found that, overall, the objectives of the Act remain valid, but recommended a new objective be added relating to the monitoring of diseases and conditions. In addition, the report recommended a range of amendments to ensure that the Act can best protect public health. The bill follows on from the review of the Act and subsequent developments in relation to public health.

I turn first to the area of vaccination, which is one of the cornerstones of public health. It is a safe, cost-effective means of effectively preventing individuals from catching and suffering from the once common and fatal illnesses that wreaked havoc and misery on the community. Measles, tetanus, polio and diphtheria are just some of the diseases that once caused fear, pain, suffering and death but which are now, thankfully, largely controlled in Australia due to the success of vaccination. However, not everyone can be safely vaccinated, and vaccines are not always fully effective. Young babies cannot be fully protected by vaccination and some children and adults cannot be vaccinated for medical reasons. That is why it is the responsibility of all of us who do not have a medical contraindication to be vaccinated and to ensure our children are vaccinated. If people who can be safely vaccinated are, we provide a greater level of protection to those who cannot. The higher the rates of vaccination amongst those who can be vaccinated the lower the risk of infection to those who cannot be safely vaccinated.

Thankfully, most members of the community fully support vaccination, as evidenced by more than 93 per cent of New South Wales children registered as being fully vaccinated. However, the success of vaccination can result in some people becoming complacent about vaccination. More disturbingly, there are small pockets in the community that not only do not support vaccination but also peddle lies and misinformation about the safety and effectiveness of vaccination. We cannot allow the community to become complacent and we must fight back against the untruths about vaccination. To properly protect and promote public health we must maintain the highest level of immunisation possible within the community, and an important place to start is vaccination of children in childcare facilities. I note the Minister for Early Childhood Education is present in the Chamber. Childcare facilities can offer a breeding ground for the spread of disease due to the close proximity of children in a confined space. Herd immunity is especially important in that environment. Increasing the proportion of children in child care who are vaccinated will help to protect those who cannot be safely vaccinated or are not yet fully vaccinated.

As such, this bill will amend the Public Health Act to require a principal of a childcare facility to prevent a child who is not vaccinated solely due to the objections of their parents from being enrolled in child care. Under the changes contained in section 87, a childcare facility will be able to enrol a child only if the facility is provided with evidence that the child is age appropriately vaccinated, is on an approved catch-up schedule, or has a medical contraindication to vaccination. It will be an offence for a principal not to comply. The report on the statutory review of the Act recommended strengthening existing childcare vaccination requirements, although exclusion of unvaccinated children from child care was not included in the recommendations.

However, the New South Wales Government has considered the issues and has heard community calls, and indeed calls from the Prime Minister, to increase vaccination rates in child care. This Government supports the need to increase the rates of vaccination, and the need to protect and to promote public health is the basis for these changes. Some may argue this change is unfair because it disadvantages children as a result of the decisions of their parents. The Government does recognise the importance of early childhood education. However, what is unfair is parents choosing to place their own child, as well as other children and other members of the community, at risk of serious harm or even death by not vaccinating their children.

Parents who have chosen not to vaccinate their child or children will have a decision to make—to listen to all credible medical and public health experts and to protect their own child or children and others by vaccinating the child or children or ignoring the experts and science, leaving their child or children unvaccinated at the risk of life-threatening infections and not being able to enrol their child or children at child care. I urge parents not to make the latter choice. Vaccination is a success story of the modern era. We live in an age when some diseases can be prevented before they begin. All children should have the advantages of vaccination and those who can be vaccinated should be to protect themselves and others.

While it will no longer be acceptable for parents who choose not to vaccinate to enrol their child in child care and to place others at risk, the Government does recognise that there may be some groups in the community that have difficulties producing vaccination records at enrolment. These groups include children in emergency out-of-home care or a child who has been evacuated during a state of emergency. The changes are not intended to affect these classes of children. However, the bill amends the public health regulation to exempt two additional groups from the initial vaccination enrolment requirements. Those groups are Aboriginal and Torres Strait Islander children, and children in out-of-home care.

The groups in the public health regulation that will be exempted from the vaccination enrolment requirements are not groups the ministry expects to be unvaccinated. In fact, some, such as Aboriginal and Torres Strait Islander children, have higher rates of vaccination than non-Aboriginal and Torres Strait Islander children. However, parents and guardians of these children may find it more difficult to produce records on enrolment and therefore their children may be disproportionately negatively affected by the changes.

The regulation will require the vaccination records for these groups of children to be provided within 12 weeks of enrolment.

This important change will be supported by additional amendments to the provisions of the Public Health Act relating to vaccinations as recommended by the report on the statutory review. Currently under the Act, principals of primary schools and childcare facilities must collect information about a child's vaccination status. When a child at primary school or child care has a vaccine-preventable disease, a public health officer can issue an exclusion order. An exclusion order excludes a child with a disease or any unvaccinated child from attending a primary school or childcare centre during the outbreak period.

The bill extends these provisions to high schools and allows an exclusion order to be issued when an unvaccinated child has come into contact with a person with a vaccine-preventable disease anywhere, regardless of whether there is an outbreak at the particular school or childcare facility that the child attends. Despite the success of vaccinations, outbreaks of vaccine-preventable disease occur from time to time. However, the changes in the bill will assist in the better management of such outbreaks by preventing unvaccinated children who have no medical contraindication to vaccinations from being enrolled in child care, which will assist in protecting and promoting public health.

I turn now to the other changes in the bill, which mostly follow on from the recommendations contained in the "Report on the Statutory Review of the Public Health Act". The bill amends section 3 of the Act, which is the objects clause of the legislation. The objects recognise the importance of protecting and promoting public health, controlling the risks to public health, and the important role that local government plays in public health. As found by the report, these objectives are appropriate but there is no express objective relating to the monitoring of diseases and conditions. This is despite the fact that the Public Health Act requires a range of conditions and diseases to be notified to the Secretary of Health by medical practitioners, hospitals and laboratories.

Notification allows NSW Health to monitor the incidence and impact of diseases and conditions and to take appropriate public health action, if required. Accordingly, and in line with the report's recommendations, the bill amends section 3 to include monitoring the diseases and conditions affecting public health as an objective of the Act. In respect of notification of diseases and conditions, the bill amends section 54, section 55 and section 83 to allow the Secretary of Health to obtain further information about a person with a scheduled medical condition or notifiable disease from the patient's treating medical practitioner. These changes will ensure that when the treating medical practitioner is not the person who made the notification, relevant information about the patient's medical condition and risk factors can be obtained by the Secretary of Health.

The Public Health Amendment (Review) Bill includes a new section 130A. The new section will ensure that information about notifications of diseases and conditions received by the Secretary of Health cannot be disclosed under subpoena or given in evidence except in relation to proceedings under the Public Health Act. The new provision is intended to ensure that the public can trust that the sensitive information obtained and held by the Secretary of Health will not be unduly disclosed. The change will help to facilitate the public and clinicians in providing accurate and complete information to the Secretary of Health.

I turn now to the amendments in section 62, section 63, section 64 and section 68 relating to public health orders. Currently under the Act, if a person with a high-risk disease such as Ebola, Middle East respiratory syndrome [MERS], severe acute respiratory syndrome [SARS], avian influenza in humans, or typhoid, is acting in a way that places the public at risk, a public health order can be made. A public health order can require a person to refrain from certain conduct, be detained and/or treated. However, a public health order cannot be made in respect of a person who has come into contact with a person with a high-risk disease but has not yet developed the disease. A contact may be infected and then can be infectious prior to developing symptoms of the disease. This means that if a contact who may not be displaying any symptoms refuses to undertake appropriate risk mitigation measures, such as not entering public places, they may place other members of the public at risk of infection.

Management of contacts of persons with high-risk diseases can be central to the effective management of an outbreak of a disease and prevent ongoing transmission, as demonstrated in the 2003 SARS outbreak overseas. Generally, a contact would agree to risk mitigation measures. However, the report found that the public health order provisions should be extended to contacts with high-risk diseases who are potentially placing the public at risk. The recommendation was accepted by the Government and the bill amends division 4 of part 4 of the Act to allow a public health order to be made with respect to the contact of a person with a relevant condition, being viral haemorrhagic fever, MERS, SARS, avian influenza in humans, or typhoid. An order can only be made if the authorised medical practitioner is satisfied that the person has been exposed to the relevant condition and is at risk of developing the condition and that the person is behaving in a way that may be a risk to public health.

While public health orders for contacts are a necessary tool to protect public health in rare cases, they pose restrictions on a person's liberty. Therefore, a number of safeguards have been built into the bill. A public health order in respect of a contact with a person with a relevant disease must be revoked, at the latest, at the end of the incubation period for the relevant disease. For example, a public health order relating to a contact of a

person with SARS can last a maximum period of 10 days, while the maximum duration of an order relating to a contact of a person with a viral haemorrhagic fever such as Ebola is 21 days. Further, if the authorised medical practitioner makes an order, the order will have to be reviewed and confirmed by the NSW Civil and Administrative Tribunal. Public health often involves balancing the rights of the individual and the public health needs of the community.

The provisions in the bill strike an appropriate balance between a person who has been exposed to a serious infectious disease and the safety of the public. Further, following amendments in the other place, the amendments to section 62 relating to the new public health orders will be reviewed 24 months after the commencement of the section. The bill amends section 106, which relates to public health inquiries conducted by the Health secretary. The bill will allow the secretary, following a public health inquiry, to order the person that has caused or contributed to a risk to public health to notify persons placed at risk. This amendment will assist in ensuring members of the public are aware of a public health risk and the measures to take to mitigate the risk. The bill also amends section 106 to ensure that a search warrant can be applied for the purpose of a public health inquiry.

I turn now to the changes in the bill relating to section 56. Section 56 provides for additional privacy protections for a person with a category 5 condition. There are only two category 5 conditions—human immunodeficiency virus [HIV] and acquired immune deficiency syndrome [AIDS]. Section 56 requires HIV notifications by medical practitioners or pathology laboratories to be given to the secretary in a de-identified format. This is different from all other diseases where notifications are given in an identified format. This prohibits a person's name from being included on an HIV pathology test request form outside of a hospital except with consent and it creates an offence for disclosing a person's HIV status, except in limited circumstances, including when the disclosure is made to a person involved in the provision of care, treatment or counselling to the person concerned so long as the information is relevant to the provision of such care, treatment or counselling.

Section 56 is based on section 17 of the old Public Health Act 1991 and reflects the historic circumstances of HIV. Historically, there was considerable and regrettable discrimination against homosexual men and people with HIV, which was a death sentence. As a result, additional confidentiality protections were included in the former Public Health Act 1991 and these were carried over to the 2010 Act. Thankfully, times have changed. HIV is now a manageable condition. However, section 56 can create a barrier to testing a person for HIV and the management of patients with HIV. Therefore, the bill seeks to update and modernise section 56. The bill removes the requirement that a patient consents to their name being included in a test request form. This will reduce a barrier to testing and bring HIV testing in line with testing for other conditions.

In addition, the bill amends section 56 to make clear that an exemption to the non-disclosure requirement is when HIV information is disclosed for the purpose of care, treatment or counselling, regardless of whether the care is being provided specifically for HIV. As HIV is a chronic illness, clinicians must be aware of a person's HIV status when treating a patient for a condition even if it appears completely unrelated to their HIV infection. However, the use and disclosure of a person's HIV status, as with any other health information, will be limited by the privacy principles set out in the Health Records and Information Privacy Act.

No changes are being made to the requirement that HIV notifications are to be in a de-identified format. The report noted that the ministry supported, in principle, named notifications as it would likely lead to improved epidemiological information and better capacity to support people with HIV. However, many stakeholders were not yet comfortable with moving to named notifications due to the unfortunate stigma that persons with HIV can still experience and concerns that named notifications may deter people from being tested for HIV.

The report did not recommend any changes in respect of HIV notifications but noted that the Ministry of Health would continue to work with stakeholders on this issue.

The bill also updates and modernises section 79. The bill removes the current requirement on persons with a sexually transmitted infection [STI] to notify their sexual partners of their STI status and replaces it with a requirement for persons with an STI to take reasonable precautions against the spread of the STI. The report found that there is no evidence that section 79 is effective at preventing the spread of STIs. It also found that section 79 is inconsistent with public health messages, which focus on safe sex and the need for persons with STIs such as HIV to be on treatment and can discourage people from getting tested for STIs.

Section 79 is also out of alignment with other States and Territories, which do not have a requirement that a person with an STI notify their sexual partner. The bill therefore removes the notice requirement in section 79 and replaces it with a provision requiring a person with an STI to take reasonable precautions against the spread of the infection. Reasonable precautions would generally include the use of a condom. In addition, in respect of HIV, recent evidence shows that having an undetectable viral load as a result of being on treatment can prevent the risk of transmission of HIV. The new section 79 will better align the public health messages about safe sex

and the importance of people being tested and treated for STIs. Following amendments in the other place, the new section 79 will be reviewed two years after commencement, with a report tabled in Parliament 12 months after that.

I turn now to the provisions of the bill relating to environmental health premises. Environmental health premises contain a public swimming pool or spa pool, or premises containing a "regulated system", which is a system such as a water-cooling system that is at risk of spreading Legionella bacteria, or premises where skin penetration is conducted. Environmental health premises all carry a risk of spreading serious infectious diseases. Therefore, the Act requires occupiers to comply with appropriate standards to reduce the risks of infection. These standards are set out in the Public Health Regulation.

The bill makes a number of minor amendments to these provisions. It clarifies that public swimming pools include pools on private residential premises that are used for a commercial purpose such as commercial backyard learn-to-swim pools, splash parks, and interactive fountains; it clarifies that where certain regulated systems are installed in a multi-tenanted building the owners' corporation is the occupier; and it brings procedures that penetrate a mucous membrane, such as a tongue, within the definition of a skin penetration procedure.

The bill also includes a new section 39A, which will make it an offence for a person other than a medical practitioner, or other person prescribed by the regulations, to perform eyeball tattooing. While the report on the review did not recommend prohibiting eyeball tattooing, it is an extreme form of skin penetration that carries risks over and above those of infection control. Eyeball tattooing can lead to serious damage of the eye and even blindness. Thankfully, eyeball tattooing has not become common in New South Wales. I cannot understand why anybody in their right mind would want their eyeball tattooed. While I have been advised of a small number of legitimate medical reasons that such tattooing may be carried out, the Government is preventing unqualified persons from performing eyeball tattooing.

The bill also makes changes in relation to suppliers of drinking water. Currently, section 25 of the Act requires suppliers of drinking water to establish and adhere to a quality assurance program. However, there is no penalty for non-compliance. The report found that a lack of penalty can impede compliance with suppliers establishing a quality assurance program. As such, the bill amends section 25 to include a penalty for non-compliance. In addition, and in line with the recommendations of the review, the bill also amends section 4 to recognise that local governments have a responsibility to regulate private water suppliers in line with their role in regulating environmental health premises.

I turn to the amendments in the bill relating to registers under the Act. Minor changes are also made to sections 97 and 98 in respect of public health and disease registers. The bill clarifies that the requirements in these sections apply only to a public health and disease register established under sections 97 and 98 and not to any other registers that may be created under the Act. In addition, regulations will be able to be made setting out additional purposes for which a public health and disease register can be created.

The bill also removes the provisions in the Act relating to the Pap test register. The Pap test register has been an important register maintained by the Cancer Institute on behalf of the Health secretary and has assisted thousands of women in remembering to undergo a Pap test, which can detect early signs of cervical cancer. Each State and Territory runs a similar register. However, the Commonwealth has moved to establish a national cancer screening register, which will replace the State and Territory Pap test registers. A national register has benefits as it will apply to cancers other than cervical cancer and can assist in ensuring that women who move interstate are not lost to follow-up appointments. Therefore, and in line with the recommendations in the report, the bill removes the provisions in the Act relating to the Pap test register.

I am pleased that many stakeholder groups and members of the public contributed to the review of the Public Health Act. Many of the submissions received related to nursing homes. Under the Act, certain nursing homes must have a registered nurse on duty at all times. However, the definition of "nursing homes" is problematic as it refers to facilities that provide care under the Commonwealth Aged Care Act in relation to an allocated place that requires a high level of residential care within the meaning of the Commonwealth Act. The Commonwealth has since removed the distinction between high levels and low levels of care.

Regulations are in place to grandparent existing nursing homes in New South Wales that previously had a requirement to have a registered nurse on site at all times. The issue of aged care is the responsibility of the Commonwealth. However, the New South Wales Government referred the issue of staffing in nursing homes to the Council of Australian Governments Health Council. I am pleased that the Commonwealth has subsequently undertaken public consultation on a proposed new set of quality standards for all aged care services. The draft standards include a requirement that facilities provide a sufficient skilled and qualified workforce to provide safe and quality care and services. I look forward to the development of these standards. The Public Health Act is the primary health legislation in New South Wales. The amendments in the bill will ensure that the Act remains

effective and up to date in protecting public health and controlling the risks to public health. I commend the bill to the House.

The Hon. WALT SECORD (17:45): As the Deputy Leader of the Opposition and shadow Minister for Health I speak for Labor in debate on the Public Health Amendment (Review) Bill 2017. As Labor's representative on health matters in the Legislative Assembly member for Port Stephens Kate Washington said, Labor is supporting the bill and will be monitoring its implementation. I note that the member for Port Stephens made a lengthy contribution to the second reading debate in the other place, so I will not repeat most of her observations. I will stress that we have concerns about what some sections of the community initially saw as overreach by the Berejiklian Government. That was why on 12 September Labor lodged several amendments to improve the bill and create some safeguards.

In the spirit of bipartisanship the Opposition urged the Government to consider the amendments, as they would strengthen the bill, provide some protections and respond to concerns raised. First, I thank my colleague the Hon. Penny Sharpe for her assistance. She has provided intelligent and considered insights and been a strong and principled advocate for people's rights in this area of public policy. Furthermore, while I often vehemently disagreed with the tin-ear approach taken by previous Minister for Health Jillian Skinner, I acknowledge she was a supporter of the lesbian, gay, bisexual, transgender, queer, intersex and asexual community, particularly in tackling HIV and hepatitis. In the past Mrs Skinner would have secretly accepted the amendments and given them to a friendly crossbench member to present as their own, and in fact that occurred in the Legislative Assembly earlier today. I foreshadow that I will still move a small amendment.

On that point I refer to amendments that member for Sydney Alex Greenwich moved in the other place. I am rather startled that he has assumed the role of Christian Democratic Party leader Reverend the Hon. Fred Nile in putting forward amendments that the Opposition had originally advocated for a long time as his own. I will put that matter aside in the pursuit of the common good and better health policies, but I hope his supporters read *Hansard* and realise that he is very close to the Government on many matters. In fact, the voting record shows that the member for Sydney votes overwhelmingly with the conservatives on many occasions.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): Order!

The Hon. WALT SECORD: I digress. I was just putting this in context and giving the community an insight into how amendments come to the life.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): Order! The member will return to the leave of the bill.

The Hon. Dr Peter Phelps: The great parliamentary educationalist Walt Secord.

The Hon. WALT SECORD: I will do something on the constitution next, if you wish. There have been some preliminary discussions about referring this bill to a committee. I will not be supporting that proposal by Reverend the Hon. Fred Nile. A lot of work has been put into this bill and there has been much consultation. This bill will make a number of changes to the Public Health Act as part of the statutory review of that Act.

In a practical sense, this is an omnibus bill or a statute miscellaneous bill with some controversial aspects. Broadly, it covers vaccinations in childcare centres; protections for the supply of drinking water; eyeball tattooing; skin penetration procedures; measures to curb legionella; safeguards on disclosure on HIV-AIDS; measures on persons engaging in sexual activity when they are aware they are infected with sexually transmitted infection [STI]; and public health orders in relation to some diseases and conditions such as SARS, Middle East respiratory syndrome [MERS], Ebola and HIV-AIDS.

Unfortunately, the bill breaks a major promise by the Baird and Berejiklian governments. Both administrations gave an indication to the community that they would move to having a registered nurse on duty 24/7 in aged care. The Parliamentary Secretary made an attempt to place that at the feet of the Federal Government. Aged care is a Federal responsibility but New South Wales was the only jurisdiction in Australia to require a registered nurse on duty 24/7 in aged care. This Government removed that requirement and there was hope in the community that it would be restored in this bill.

By way of background, on 10 August the health Minister introduced this bill. In his second reading speech he said it was part of the 2016 statutory review of the bill and had been the subject of more than 200 submissions. However, he skated over a number of issues. Notably, this bill incorporates three Labor initiatives—the main items being a ban on eyeball tattooing and vaccinations in childcare facilities. Those measures were previously opposed by former health Minister Jillian Skinner, and I welcome the decision of the Berejiklian Government to include them in this legislation. It also picks up Labor's longstanding concerns about the inadequate inquiries carried out by NSW Health.

It is a small step but cautiously welcomed. Hopefully, this amendment will prevent the repeat of other health and hospital whitewashes—namely, I refer to Professor David Currow's inquiry into the chemotherapy off-protocol under dosing carried out as a section 122 inquiry under the Public Health Act. The bill will allow a search warrant to be applied for when the secretary is conducting a public health inquiry. We all remember that several St Vincent's doctors refused to cooperate with the inquiry and nothing happened to them. They were not compelled to participate and they did not cooperate. I do not know how Professor Currow can stand by that investigation. This amendment would have been useful in getting to the bottom of the disgraceful chemotherapy off-protocol scandal at St Vincent's Hospital and the clinics in the Central West. The bill also extends safeguards and privacy protections for people with HIV-AIDS and disclosure of their status.

The bill amends section 3, which provides for the monitoring of diseases and conditions affecting public health and it involves control orders. Section 3 will be amended to give stronger powers to monitor major communicable diseases and conditions affecting public health. This is limited to the incubation period of a disease. That is a sensible control. This bill covers a range of topics and I particularly welcome the provisions on vaccination in childcare facilities. I congratulate the Government on taking this on board but I note that in April 2017 the Minister for Early Childhood Education, the Deputy Leader of the Government and the Hon. Duncan Gay attacked it. Lo and behold it is now in this bill, and I welcome it.

The Hon. Dr Peter Phelps: That is very magnanimous of you.

The Hon. WALT SECORD: I am in a very generous mood today. Currently, 93 per cent of children in New South Wales are vaccinated. Those rates need to be up to 95 per cent to protect those who cannot be vaccinated. The bill adopts Labor's plan on vaccinations in childcare facilities, whereby children who are not vaccinated are refused enrolment. It carries sensible exemptions such as for children who are undergoing treatment such as chemotherapy or those in need of emergency out-of-home care. It also allows Aboriginal and Torres Strait Islanders and guardians of children extra time to provide vaccination records. That was not included in my bill and it is an improvement. Indeed, it is a sensible and welcomed measure. The bill also removes the ability of a childcare facility to enrol a child who is unvaccinated due to the so-called and inaccurately described "conscientious objections" of their parents.

The use of the phrase "conscientious objector" is a misrepresentation. I note the tiny ragtag rally held yesterday in Martin Place. I also note the handful of emails I received from the anti-vaccination movement when I first proposed these measures. Anyone who gives comfort to those nutters deserves to be condemned. I do not acknowledge or respect their views. As I have often said, no-one has the right to subject their child to an infectious disease or to preventable diseases. 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 speak about individual choices and parents' rights, let us keep that specific factual context in mind. This bill is necessary because of a loophole in the existing legislation, created by the previous Minister for Health. It has become necessary to ban the setting up of specialist anti-vaccination centres in New South Wales—there was a proposal to set one up on the northern beaches and another on the far North Coast.

In June 2013, I originally expressed my concerns about the so-called "conscientious exemption" in the legislation introduced by former health Minister Skinner. As it turns out, my concerns were well founded as this loophole was set to be exploited. To give context, in this country and this State we have a vaccination crisis—preventable diseases such as measles, whooping cough, tetanus and tuberculosis are appearing. Only this week NSW Health reported another measles case, where an infected person visited a number of sites in south-eastern Sydney. Between 5 September and 11 September that person visited Miranda Fair and a number of other sites in the shire. Measles is one of the most contagious diseases known—anyone who enters a room half an hour after an infected person has been there can still catch the infection.

The March edition of the *Medical Journal of Australia* reported that approximately 37,000 conscientious objectors are registered nationally. In New South Wales there are about 13,000 people who claim they do not have to vaccinate their children. In recent months patients have been presenting to New South Wales hospitals with vaccine-preventable diseases in increasing numbers. I grew up a community with people who had polio. It was ridiculous to see people suffering from a preventable disease. 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 should justify action. Added to the argument is a rational, objective view about what the loophole truly supports.

This is not conscientious objection. The term "conscientious objection" comes from the anti-conscription movements of the early twentieth century. The anti-vaccination 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 that of the parent who is not an expert. There is no scientific or medical debate on this. The jury is in—namely, vaccinations work and they save lives. The

greatest improvements to world public health are from sterilisation of equipment, washing hands, the provision of clean water and immunisations. Vaccine refusal is not a scientific, moral or ethical resistance; it is an egregious elevation of personal choice.

The fact that children are getting ill—unnecessarily ill, seriously ill and sometimes fatally ill—is due to deference to so-called personal choice. That is wrong. 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 repeat, 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 that would be neglect. We do not give parents personal choices to not adequately feed and nourish their children because that would be neglect. The anti-vaccination loophole deeply privileges personal opinion in the face of all medical, scientific and policy evidence. It never should have been opened by the previous health Minister. It certainly needs to be closed, and I welcome it. 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. That is why mothers in Africa and on the Indian subcontinent line up for hours to vaccinate their children. Yet on the northern beaches of Sydney and on some parts of the North Coast of New South Wales, they are resisting. Vaccination rates in northern New South Wales, in some parts of the State's east and on 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 the Murwillumbah rate was 76 per cent. These are at dangerous levels. Across the Northern NSW Local Health District the vaccination rates for children under the age of two are just 84.9 per cent. That is the worst local health district vaccination rate in the State.

In April I read and spoke about a measles outbreak in Romania, where the national vaccination rate is at 86 per cent. The World Health Organization has reported that Romania has seen nearly 2,000 cases of measles, which included 17 children who have died since February 2016. The decline in vaccinations in Romania has been attributed to the anti-vaccination movement there. 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. Sadly, as these vaccination rates drop, we are seeing these diseases in New South Wales again. It is startling 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. We cannot 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-vaccination movement now show us that it is not only open to us but also incumbent on this Parliament to plug vaccination loopholes and to find ways to increase vaccination rates.

Vaccinations are the only way to protect against serious diseases such as 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 so-called "pox parties". To fail to vaccinate one's child is simply irresponsible—it is neglect. That is why the New South Wales Labor Party has supported the Federal Government's "No jab, no pay" and the stand of the Prime Minister and Federal Leader of the Opposition Bill Shorten to drive up vaccination rates. I am 100 per cent on board and I am in total agreement with the Prime Minister and Bill Shorten. In fact, I would go further. If the Government wants to bring in tougher measures on vaccinations I am willing to consider them.

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. 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. Under the bill, a childcare facility will only be able to enrol a child who is fully vaccinated, on an approved catch-up schedule or if they have a medical contraindication to vaccination, such as chemotherapy, organ donation and recognised major illnesses.

It will be an offence for a director of a childcare facility to not comply. Certain categories of vulnerable children, such as Aboriginal and Torres Strait Islander children and children in out-of-home care, will still be able to enrol, but the legislation will require that they have to provide their vaccination documentation within 12 weeks of enrolment, which I believe is reasonable. The maximum penalty for non-compliance is $5,500. The legislation also makes it an offence for a person to forge or falsify a vaccination certificate which is provided to a childcare facility to enable the enrolment of a child. Furthermore, it extends the existing provisions that apply to primary schools to high schools.

These measures would directly target individuals like Melbourne's Dr John Piesse, who has helped parents avoid compulsory vaccinations. He should be railroaded out of the medical fraternity—he should be disbarred. Currently, he and two other doctors are the subject of investigations in Victoria. He also holds controversial views on autism and heart disease. I am disappointed that a campaign by the anti-vaxxer movement has raised $117,251 in Dr Piesse's defence fund. I would not give a cent to this charlatan or to his defence. The bill also requires principals of high schools to obtain information about a child's vaccination status at enrolment. It allows a public health officer to exclude a child with a vaccine-preventable disease, or an unvaccinated child, from high school during the outbreak of a vaccine-preventable disease. The bill allows a public health officer to take action to exclude a child from a childcare facility or a school if the officer believes that an unvaccinated child has come into contact with a person with a vaccine-preventable disease, even if there is not an outbreak at the childcare facility or school. This will assist in better preventing outbreaks from occurring.

As for anti-vaccination groups arguing that some children will miss out on child care and early childhood education because their parents refuse to get them vaccinated, that is absolute rubbish. The number is so minute that it would amount to a small handful of children in the entire State. Labor's position on vaccination is very clear: there is no such thing as a so-called conscientious objector; a parent who refuses to have his or her child vaccinated is an anti-vaxxer. Three to 4 per cent of children cannot be vaccinated, which is why we need high levels of vaccination rates in children in order to protect those who are not vaccinated.

I now turn to section 79, which relates to sexually transmitted infections. This is the area that was the subject of amendments in the Legislative Assembly, to which I referred earlier. The bill removes the requirement for persons with sexually transmitted infections [STIs] to notify their sexual partners before having sex. This is replaced with a provision which makes it an offence for a person with an STI to fail to take "reasonable precautions" against the spread of the STI. I note that in his second reading speech the Parliamentary Secretary referred to a condom as a reasonable precaution. The penalty for contravention is an $11,000 fine and/or six months jail. Some sectors have raised concerns about the imposition of this high fine and a possible jail term.

The bill also extends responsibility to the owner or occupier of a building—it could be a brothel owner—who knowingly permits an infected person to engage in sexual activity at the premises. The Berejiklian Government's amendment has an unintended consequence by providing a maximum six-month prison penalty: it could be argued by some that it could be a weakening of the current laws. In November 2013 there was a high-profile case of a then 44-year-old man who knowingly infected his girlfriend with HIV, which she then unwittingly passed on to another man. He knew for 10 years that he had HIV, but he had unprotected sex with her on five separate occasions in a nine-month period. He received a three-year prison term for "inflicting grievous bodily harm".

The bill also addresses the notification of certain diseases and conditions. The bill amends sections 54, 55 and 83 to allow the secretary to obtain further information about a person with a scheduled medical condition or notifiable disease who has been notified to the secretary by the patient's treating medical practitioner. These changes will ensure that when the treating medical practitioner is not the person who made the notification, relevant information about the patient's medical condition and risk factors can be obtained by the secretary. In relation to public health orders, the bill amends the provisions of the Act relating to public health orders, requiring a person with certain serious conditions, such as Ebola, Avian influenza in humans, typhoid, MERS, SARS or HIV, and who is posing a risk to public health, to be detained and/or treated, or to comply with certain other directions.

Some safeguards are in place, such as the public health order must be revoked at the latest at the end of the incubation period for the disease; for example, for SARS that could be 10 days or for Ebola it could be 21 days. These orders can be reviewed by the NSW Civil and Administrative Tribunal [NCAT]. The bill allows a public health order to be made by an authorised medical practitioner in respect of a person who has been exposed to a "contact order condition" and who poses a risk to public health. Contact order conditions are set out in new schedule 1A and include serious and highly infectious diseases such as MERS, SARS, typhoid or viral haemorrhagic fever—Ebola. Appropriate safeguards have been included in the bill, such as the maximum period of a contact public health order is the incubation period for the relevant condition, and an application must be made to NCAT to review the order within three working days of the order being made.

The bill allows a public health order to require people who are the subject of the order to provide details about other persons with whom they have come into contact. The bill allows a public health order to provide for the detention of the person with a disease, or who has been exposed to a contact order condition, regardless of whether or not treatment can be given to the person.

The secretary can direct a person to undergo a medical examination under section 61. This will require the ministry to detail in its annual report how many public health orders are made each year under section 62. Given that the member for Sydney moved many of my amendments, I will ask the Government to consider publishing a list of the orders made relating to public health orders. While a number of measures involve control orders, there are also privacy protections for HIV-AIDS. The bill amends section 56, which provides for additional privacy protections for persons with a category 5 condition, being HIV or AIDS.

This will prohibit, outside a hospital, a person's name being included on an HIV pathology test request form except with consent and creates an offence for disclosing a person's HIV status, except in limited circumstances such as to a person who is involved in the provision of care, treatment or counselling of someone as long as it is related to the provision of care, treatment or counselling. It removes the requirement that an HIV test request form contain a patient's identifying information only with the consent of the person. This will ensure that HIV tests are treated no differently from other pathology test requests and remove barriers to HIV testing. It expands the current exemption to the non-disclosure provision relating to a person's HIV status to allow HIV information to be disclosed for the purpose of providing care, treatment or counselling to the patient. Currently, the relevant exemption can be narrowly read to allow disclosure in a healthcare setting only when the information is needed to treat a person for HIV. General privacy protections will continue to apply to the use or disclosure of a person's HIV information. The penalty is a maximum of $5,500.

In regard to Pap Test Register changes, the bill removes the provisions in the Act relating to the Pap Test Register. This is because the Commonwealth is establishing a National Cancer Screening Register, which will take over State and Territory based pap test registers. The purpose of this change is to increase the number of women on the register and to ensure that women who move interstate or interterritory are included. In regard to drinking water supply protections, the bill amends section 25 to make it an offence for a supplier of drinking water—unless exempted by the Chief Health Officer—to fail to establish or adhere to a quality assurance program. Suppliers of drinking water will be required to provide a copy of the quality assurance program to the secretary. It also amends section 24 to provide that local government authorities have responsibility over the regulation of private water suppliers and water carters.

I turn now to environmental health. The bill makes minor changes to the environmental health premises provisions to clarify that a public swimming pool includes a pool on a residential premises that is used for commercial purposes as well as splash parks and interactive fountains in order to reduce the spread of legionella bacteria. The bill provides that the occupier of multi-tenanted premises containing water cooling systems or air-handling units is deemed to be the owners' corporation. Unfortunately the Berejiklian and Baird governments have presided over a number of legionnaire's disease outbreaks in recent years. This year there have been 79 cases in New South Wales, including one this month, seven in August and six in July. This compares to 136 in 2016—the worst year on record. It is apparent that the Berejiklian Government is not properly overseeing the monitoring of cooling towers in New South Wales.

I refer to the bizarre and abhorrent practice of eyeball tattooing. The bill includes new section 39A to make it an offence for a person, other than a medical practitioner or a person prescribed by the regulations, to carry out eyeball tattooing. We note that there are rare cases when this practice is needed if the eye is stained due to disease such as hepatitis, but this will be permitted only if it is conducted by a qualified medical practitioner, thus banning amateur eyeball tattooing. We all remember the bizarre arguments mounted by the former Minister who refused to legislate in this area. I also recall the speech of the Hon. Dr Peter Phelps in which he defended the right to be stupid.

The Hon. Dr Peter Phelps: A right I have exercised on many occasions.

The Hon. WALT SECORD: I am pleased that the current health Minister has seen sense and has banned that practice. The bill also amends sections 97 and 98 which relate to the establishment of public health and disease registers to make it clear that these provisions do not limit other registers that can be created under the Act and to allow for regulations to set out additional purposes for which a public health and disease register can be created. I commend the bill to the House.

The Hon. PAUL GREEN (18:14): My colleague Reverend the Hon. Fred Nile will deal with the substantial part of the Public Health Amendment (Review) Bill 2017, but I wish to contribute to debate because of my history as a general practice nurse. I immunised a few children in my time and I wrote my major paper on

the immunisation gap theory at Wollongong University. Many of the recommendations in that paper were implemented.

The Hon. Walt Secord: Wollongong has the second-highest vaccination rate in Australia.

The Hon. PAUL GREEN: It does. I have had experience as a nurse which enables me to speak today with some experience. One of the aims of the bill is to lift the vaccination rate. The bill aims to prohibit the enrolment of children into childcare facilities if they have not been vaccinated or are on a catch-up course of vaccination. As members are aware, the Christian Democratic Party fundamentally is pro-life. We care about the intrinsic value of human life and we support modern medicine when human dignity and life are its primary focus. Vaccination programs have worked towards that end. Childhood deaths have been minimised through vaccination programs. We have seen the eradication of some diseases such as smallpox. Diseases such as polio, diphtheria and other debilitating childhood diseases have been greatly reduced.

If one walks through old cemeteries one often sees many headstones of children and babies who passed away before vaccination programs were widespread. As responsible parliamentarians we should always act in the best interests of the family. Over the past two decades we have seen the introduction of new vaccines for diseases such as chickenpox, cervical cancer and meningococcal disease. That terrible disease can result in people dying within 24 hours. People are admitted to the intensive care unit—often they are young people—and within 24 hours they are dead. There is nothing worse than hearing parents screaming, asking their children to hang on and try to beat the disease. No-one can argue that vaccination programs have not been successful. Unfortunately, this success has led to a complacency in some people who, unfamiliar with the consequences, question the need for vaccination. This has been compounded by "Dr Google".

There is a trove of information on the internet—some accurate, some misleading and some just plain wrong. Unfortunately not everyone in the community has the skills to scientifically scrutinise the accuracy or validity of what is on the internet. In some cases this has led to a culture of suspicion and opposition against all forms of vaccine. The problem is that parents who do not vaccinate their children not only place them at risk of illness and death but also place at risk others who are too young or unwell to be vaccinated. We have heard tragic cases of babies who have died of whooping cough simply because they were too young to be vaccinated or because they caught whooping cough from other children or adults.

Adults who have compromised immune systems due to cancer, chemotherapy or AIDS are also at risk. This is why herd immunity is an important concept; it recognises that infants and people with immune problems cannot always be directly protected by vaccines. It is why people suffering from measles are told not to visit maternity wards because it could cause damage to unborn and newborn babies. This bill aims to encourage people to get their children vaccinated before placing them in childcare facilities. Previously they would either get their children vaccinated or, if they had a conscientious objection to vaccination, discuss it with their doctor who would correct any misinformation or possible contraindications.

Some of those have been mentioned already such as anaphylactic shock, which we cannot rule out. Following an independent discussion with a doctor, if people still had an objection to vaccination the doctor would have been able to issue them with a certificate that admitted their children into childcare facilities. This bill will force people to act against their conscience, or not admit their children into childcare centres.

The Christian Democratic Party recognises that some individuals have genuine religious objections to some kinds of vaccines. It may not be well known but, according to Dr Kerry Chant, a number of vaccines are derived from embryotic stem cells or aborted fetal cells. For example, Merck & Co and GlaxoSmithKline Australia both produce a chickenpox vaccine derived from WI-38 and MRC-5—fetal lung cell lines. The Christian Democratic Party supports the rights of Christians and other people to object to vaccines derived from aborted fetal cells being used on their children. This objection is extended to parents as the primary caregivers of children. However, it does not mean that the Christian Democratic Party opposes vaccines per se. To our knowledge, for every vaccine derived from fetal cells an alternative vaccine is derived from either animal or yeast sources.

The Christian Democratic Party supports vaccination on the proviso that the contents of the vaccine are ethically sourced and do not harm recipients. Good medicines should not harm people. As required by the bill, consultation with a general practitioner would clarify the sources of the vaccines in question and allay many other myths and concerns. My colleague Reverend the Hon. Fred Nile will refer to that in detail. There is no one-size-fits-all solution and there is always the danger of anaphylactic shock.

Parents should discuss with their doctors the impact of immunisation. Children can develop temperatures and headaches and all sorts of other symptoms about which they need to be aware—symptoms that often are apparent only 10 days after vaccination. There may be temperatures and the wound may become infected. Parents

should speak to doctors and be fully informed when vaccinating their children. I am informed by Dr Peter Phelps that Voltaire did not say, "I may not like what you say but I will respect your right to say it." That saying is attributed to Voltaire's biographer.

The Hon. Bronnie Taylor: The Hon. Dr Peter Phelps is an historian.

The Hon. PAUL GREEN: He is an historian. That is the scenario with which I am faced today. I might not like what some people say but I defend their right to say it. Vaccines are necessary but, unfortunately, good hygiene, sanitation, clean water and nutrition do not always prevent infectious diseases. Most reactions to vaccines are minor and temporary, such as a sore arm or mild fever, but those side effects are reported and immediately investigated. Polio causes paralysis and measles can cause encephalitis and blindness. I nursed a young patient aged nine who contracted measles and then encephalitis and who suffered mental and physical problems until she was 15 or 16. Throughout her ordeal her parents were unbelievably faithful and loving.

Some vaccine-preventable diseases can result in death. Vaccines play a very important part in preventing those outcomes. For example, we have just had an influenza season that has been very deadly for many people in nursing homes. Vaccines can save lives in those circumstances, although the seasonal influenza vaccines offer immunity to only three of the most prevalent strains. Most people do not realise there are thousands of strains.

The Hon. Walt Secord: They picked the wrong ones this year.

The Hon. PAUL GREEN: That is right. Not much can be done if people are immunised against the wrong strains. However, it is the best way to lower the chances of contracting a severe flu and spreading it to others. Avoiding the flu means avoiding extra medical care costs and lost income as a result of missing days from work. I note the World Health Organisation's comment on the controversial issue of vaccines and autism. A 1998 study which raised concerns about a possible link between the measles, mumps, rubella vaccine and autism was later found to be seriously flawed and fraudulent. The paper was subsequently retracted by the journal that published it, but unfortunately its publication had set off a panic that led to a drop in immunisation rates. That is the World Health Organisation's explanation. People across the world are continuing to test and research the findings and assertions in the article. Some are still unresolved as to the World Health Organisation's statement on this matter.

While this amendment bill deals principally with vaccination, I want to draw attention to another part of the bill. My colleague will give a full appraisal of the bill. Proposed section 79 talks about the bill removing the requirements on a person with a sexually transmitted infection [STI] to notify their sexual partners before having sex. Instead, a provision has been included making it an offence for a person with STI to fail to take reasonable precautions against the spread of their STI. There has been comment on the definition of "reasonable" as opposed to "unreasonable". There are many expressions of sexual behaviours and while it is understood that condoms do protect STIs, there are other sexual expressions, such as oral sex and other sexual behaviours, where a condom does not apply. The Christian Democratic Party is concerned that we needed more time to consider the implications of what are "reasonable" or "unreasonable" precautions under proposed section 79. I will conclude and allow my colleague to speak further to the bill at a later time.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): I will now leave the chair and the House will resume at 8.00 p.m.

Reverend the Hon. FRED NILE (19:59): I will speak on behalf of the Christian Democratic Party to the Public Health Amendment (Review) Bill 2017. My colleague, the Hon. Paul Green, who is a qualified nurse, has given a very good speech and outlined the issues confronting us regarding the issue of vaccines. I am the practical guy. I deal with facts and not theories. The purpose of the bill is to amend the Public Health Act 2010 as a result of the statutory review of that Act; to amend the Public Health Regulation 2012 in relation to childcare vaccination; and for other purposes. Statutory reviews have become a widespread practice of the New South Wales Government. When dealing with legislation, we often include reviews occurring at two or five years. Because nothing is fixed, there is a need to review legislation and hopefully to improve it.

The Christian Democratic Party has two concerns with the bill. The first is that it creates a burden on parents who may have a conscientious objection to the use of vaccines. The second is that it removes the right of individuals, especially women, with respect to sexually transmitted diseases. As a minor party, groups often meet with us hoping to convince us to use our balance of power to assist them. I have had a number of meetings with groups who are totally opposed to vaccination. They have told me some horrendous stories, although I have not had the time or ability to verify them. Many individuals are strongly opposed to vaccinations. Some of the deputations comprised qualified doctors.

I personally believe that vaccinations have a positive value in combating diseases that in the past took the lives of thousands of children. These fatalities no longer happen as a result of vaccinations. I am not against

vaccinations per se. However, there are situations where a person's view should be respected whether or not we agree with them. In the previous Australian childhood immunisation register there was an option for religious exemption. That exemption has been removed. In 2016 the Medicare policy became "No Jab, No Pay ". The two exemptions in the bill are where prior immunity can be proven or where the child has an allergic reaction to the vaccine.

There is no provision in the legislation for conscientious or religious objection. I will propose that Portfolio Committee No. 1 conduct an inquiry so that those who object to vaccination will be able to give evidence before a committee that comprises representatives of all the political parties except the Shooters, Fishers and Farmers Party—that is, The Greens, Liberal, Nationals, Labor, The Greens and the Christian Democrats. It is a good cross-balance of the Parliament.

I am the chairman of the committee and I endeavour to ensure that inquiries are balanced and open, and that we arrive at recommendations that are acceptable to all committee members. Given that, I move:

> That the question be amended by omitting "be now read a second time" and inserting instead "be referred to Portfolio Committee No. 1 for inquiry and report by the last sitting day in November 2017", and in particular:
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> (a) conflicts of interest involving government and the vaccine industry;
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> (b) the effectiveness of vaccine adverse event reporting;
>
> (c) impacts on the Aboriginal community;
>
> (d) annual review of the Commonwealth "no jab no pay" policy, its outcomes and its implications for legislation in New South Wales;
>
> (e) legal advice against "no jab no pay";
>
> (f) the status of vaccine safety testing;
>
> (g) rates of infectious disease deaths before and after the introduction of vaccines;
>
> (h) the availability of medical and religious exemptions from vaccination;
>
> (i) precedents from other jurisdictions that have preserved choice in vaccination policy;
>
> (j) the availability of vaccines for the treatment of meningitis;
>
> (k) the impact of the bill on the rights of women and disadvantaged persons;
>
> (1) the use of human derived genetic material in the manufacture of pharmaceuticals, such as but not limited to: human albumin; foetal cells, and foetal derived cells; human cell culture (MRCS); human diploid cells (WI 38), and any other matter.
>
> (m) any other matter."

That is a comprehensive list. I do not think any committee has ever had such all-encompassing terms of reference. I have tried to incorporate the issues that members of the public have raised with me. It is in an attempt to keep faith with them that I have moved this amendment to direct Portfolio Committee No. 1 to conduct an inquiry. The purpose of the terms of reference is obvious, but members might be puzzled by term of reference (a), which relates to conflicts of interest involving the Government and the vaccine industry. There are often pressures behind the scenes when we deal with lobbyists. In this case, those pressures are coming from the vaccine industry. What influence is that industry having on government policy through lobbyists? Obviously the industry wants to maximise the use of vaccines to increase profits. That type of pressure is often an issue when Parliament deals with these types of issues.

Term of reference (c) relates to the impact of vaccination regulations in Aboriginal communities. Often vaccination records are not kept in those communities or they cannot be found, and that can result in people having repeated vaccinations. Term of reference (h) relates to medical and religious exemptions from vaccination. That addresses the right of an individual—in this case the parent—to decide how they will fulfil their responsibility to their child.

Term of reference (j) is a recent one. Members may have seen the ABC report on the spread of meningococcus, the problems with treating it and the controversy around the available vaccination to treat the disease and its cost. Some parents cannot afford it. I was moved by the recent ABC report that showed a little boy who had contracted meningococcus. The doctors had no option but to amputate both his arms and his legs. He was lying there, a trunk, with a head. We must ensure that vaccines are available for meningococcus at no cost or little cost and that we do all we can to prevent the spread of the disease.

Term of reference (k) is the impact of the bill on the rights of women. This bill removes section 79, which covers the duty of a person carrying a sexually transmitted disease, HIV and other infections. We are including the requirement for a male to tell his female partner before he has sex with her that he is carrying that virus. Every

woman has a right to know and should not be taken advantage of by someone who is carrying an infection, regardless of the length of their acquaintance. Term of reference (l) deals with the controversial issue of the amount of material in the vaccination that is derived from human cells. This concerns people who are totally opposed to abortion as well as to the use of the aborted baby, often described as a fetus, to produce a vaccine.

I remember a case in the United States from some years ago. A large refrigerated trailer was found in a car park. The owner had gone bankrupt and the contents of the trailer were decaying. The police eventually opened up the trailer and were surprised to find racks of aborted babies stacked in rows. It was estimated there were approximately 50,000 fetuses that had come from one of the major abortion clinics in New York. The trailer was on its way to Paris. It was believed that the human cells from those aborted babies were to be used in women's cosmetics, perfumes and other items. Nobody could prove that theory, which I believe is probably correct, because the owner of the trailer was no longer available. Those fetuses were being carefully stored for future use. The trailer was loaded to go somewhere; it had not been dumped in a garbage tip.

I have consulted with the Government through the Minister for Health, the Hon. Brad Hazzard. He has indicated that the Government could not support the inquiry tonight, but perhaps it will at some future date. He provided me with a letter in which he requested that Dr Kerry Chant, the Chief Health Officer and Deputy Secretary for Population and Public Health, deal with the use of human embryos in vaccines, which is one aspect of the terms of reference.

He says that is no longer occurring. The letter from Dr Kerry Chant to the Minister states:

> Dear Minister
>
> **Use of fetal cells in vaccine manufacturing**
>
> I provide information regarding the use of fetal cells in the manufacturing of vaccines provided free to children in NSW under the National Immunisation program (NIP).
>
> Vaccines provided free under the National Immunisation Program in NSW do not contain fetal cells.
>
> During the manufacturing process, some viruses need cells to reproduce and can only be grown in a laboratory. A 'cell line' is a set of cells that have an unlimited lifespan and are an ideal system to grow viruses that are used in the production of vaccines. Cell lines from aborted fetal tissue from three abortions (due to medical reasons) have been growing in the laboratory for over 40 years. No further tissues from aborted foetuses have been used and no abortions have been performed for the purpose of obtaining fetal cell tissue to harvest cell lines.
>
> The only vaccines offered routinely to children in NSW that have been grown in the media using these 40 year old fetal cell lines are measles-mumps-rubella (MMR) vaccine offered at 12 months of age, and MMR-varicella (MMRV) vaccine offered at 18 months of age.
>
> Yours sincerely
>
> Dr Kerry Chant PSM
> Chief Health Officer and Deputy Secretary
> Population and Public Health

That statement from Dr Kerry Chant is somewhat reassuring. My colleague and I have also had a face-to-face discussion with her and other representatives from the health department. We thank them for the time they took to discuss these issues with us and for their cooperation. It remains to be seen whether the letter satisfies people who are worried about aborted fetuses being used in vaccines. I hope it will. It contains factual information from Dr Kerry Chant which she obviously believes to be accurate. Whether there are exceptions or other things happening in other States or nations I suppose no-one really knows, but that is the advice that NSW Health has given to the Minister and he has given to us about this serious issue. If there was any thought that aborted fetuses were being used it could lead to parents blacklisting some vaccines. We do not want that to happen either.

Questions could still be asked about what other medical substances are used in vaccines and whether any of them contain human genetic material harvested from embryos. As I have said, because there are no exemptions for religious beliefs or conscientious objections the present vaccination scheme puts people with sincere beliefs and objections in an impossible position. They will either have to participate in a scheme that puts them in conflict with their conscience or be effectively penalised. As members would say, that is neither fair nor equitable. It is one among an increasing number of examples in which the views and interests of people with religious beliefs are being discarded. Their views are often rejected with taunts of "bigot" and other things.

The Minister has told me that this bill must be go through tonight and not be delayed because the Federal Government has in place some restriction which means the section relating to Pap smears must be passed in September.

I acknowledged that with the Minister, and I tried to see whether it was physically possible to refer the bill to the committee and allow that section dealing with the pap smears to proceed as an amended bill. I think it is probably

not possible to do that, but that was one of my suggestions to the Minister. I did not want to get New South Wales into conflict with the Federal Government's policy dealing with the vaccinations. I have already mentioned the removal of the requirement for a male—I am probably using sexist terms—who is infected with an STD to tell his female partner. I urge members to give serious consideration to the establishment of this committee. [*Time expired*.]

The Hon. MARK PEARSON (20:20): I speak on behalf of the Animal Justice Party in relation to the Public Health Amendment (Review) Bill 2017. The Animal Justice Party supports all aspects of the bill except one—compulsory vaccination. We do not support the compulsory vaccination of children as a qualification for access to child care. In question time today, the Hon. Sarah Mitchell, Minister for Early Childhood Education stated that "all children should have access to quality child care". I agree. As a result of this bill there will be children who will miss out on this very important early education due to the genuine, heartfelt—not delusional—concerns of their parents. This bill is a blunt instrument to bully those parents, and it has no place in a free, democratic society.

I do not take this stance lightly. I do not want any child to suffer from any avoidable illness that has the potential for serious side effects or, indeed, lethal consequences. I believe that the best option is for the vast majority of children to be vaccinated in order to reduce the risk of these consequences. However, I place a very strong caveat on this statement. This is my personal opinion, arrived at through the exercise of my conscience and my understanding of the medical science. There is nothing more important in a free, democratic society than affirming that people must have the right to act according to their own consciences, particularly when it involves their or their children's bodily autonomy and integrity.

I cannot accept that the State should be given the power to ride roughshod over the right of parents to determine what is in the best interests of their children. Only in the most immediate, unambiguous circumstances should the State intervene—for example, where a child is in immediate need of a blood transfusion and parental religious objections place the child at risk of imminent death. It should not, in my opinion, include vaccination for childhood diseases that in my 1960s childhood resulted in the vast majority of children experiencing no more than a passing illness and no ongoing debility. Of course, some children became seriously ill and some died. That is a serious matter, but the numbers were very low.

I have read the World Health Organization position on herd immunity, and I accept that parents of good conscience are entitled to make a decision when objecting to vaccinations; they are not placing their children at risk of imminent, serious harm. Herd immunity works on the basis that, by increasing the proportion of children vaccinated in relation to the total number of children, immunity failure rates will decrease in an exponential fashion. However, this notion is heavily dependent on the efficacy of the vaccine and the testing regime for immunity success. Due to the exponential nature of its effectiveness, full immunity would never be achieved simply by mandating complete vaccination of all children.

Proportionality in the response of the State should be the foremost consideration, especially when mandating the invasion of bodily integrity. Education programs are the proper response of a progressive, freedom-embracing society, not the heavy hand of State power to restrict or exclude children from important, foundational building blocks of civil life.

The State has the responsibility to convince citizens rather than compel them, except in the most extreme situations—this is not one of them. The Animal Justice Party will be opposing the bill and supporting the very welcome amendment to refer the bill to the appropriate committee for further important reflective consideration.

Ms DAWN WALKER (20:24): On behalf of The Greens I speak to the Public Health Amendment (Review) Bill 2017. The bill contains changes to the Public Health Act that require consideration in their own right as well as within the wider context of public health. These changes flow from the 2016 statutory review of the Act. The Greens support the bill in principle and understand that its amendments seek to meet the main objective of this bill—namely, creating a safer public health environment for all. However, some of elements of the bill seem at best contradictory—namely, the threat of criminal sanctions without any clarity of the concept of "reasonable precautions". The bill contains a vast array of amendments, the majority related to the tightening of vaccination requirements for childcare centres and schools and the creation of certain exemptions from vaccination enrolment requirements. My colleague, Justin Field, will speak to those proposed changes.

The amendments also include the provision and access to information by the secretary, changes to public health orders and the prohibition of eyeball tattooing, as well as amendments relating to environmental health premises and the supply of water. I will speak to the changes to notification requirements for patients with sexually transmitted infections [STIs], the increased penalties and a shift to "reasonable precautions" in preventing the spread of STIs and changes to procedure regarding HIV testing protocols. The Greens welcome the changes in the bill that will contribute to breaking down the historical stigma surrounding sexually transmitted diseases. But

whilst there have been some significant improvements towards the normalisation and regulation of STIs, there are some areas of real concern. In some ways, the bill seems at odds with itself—seeking to not only break down stigma but also introduce harsher penalties and criminalisation to people's private lives.

The bill contains a number of positive changes, including the removal of the need for de-identification on an HIV request form. This will allow clinicians to know whether an HIV test has been ordered. It will also allow for better continuity of care and for better care and communication when multiple clinicians are involved in a patient's care. It will ensure that multiple tests are not unnecessarily ordered or, even worse, not ordered at all. This is part of creating a better public health system that has the capacity to take care of all its patients to the best of its ability. It will also aid in the normalisation of a condition which was historically so stigmatised. The world we live in now is one where there has been significant medical advances in and effective treatment for the ongoing management of HIV. In addition, there is progress in the removal of the requirement of notification. It is my understanding from speaking to stakeholders, particularly at the AIDS Council of NSW [ACON], that this will remove a significant barrier to testing.

There will no longer be a requirement for someone with an STI to inform their sexual partner, as long as they take reasonable precautions. This will bring New South Wales into line with other public health policy across Australia and start the shift towards a mindset of shared responsibility in sexual health. But the decision to increase penalties and criminalise in section 79 is certainly not a positive. Threatening those with an STI with penalties of up to $11,000 or six months in prison is a massive step backwards in our public health approach to sexual health. It also leaves the public with very little clarity about what steps they need to be taking to keep themselves healthy. The threat of criminal sanctions carries a real risk of undoing the good work of removing the notification requirement.

With so little clarity around what "reasonable precautions" means for different STIs, there may be a reluctance to get tested. Further, there may be a reluctance to tell previous sexual partners about an STI diagnosis for fear of criminal charges. There is no need to introduce criminality into the sphere of public health, not when there are already provisions within the Crimes Act that deal with those who knowingly or recklessly put others at risk. It creates an atmosphere of fear and secrecy when we should be moving towards normalisation and openness in our understanding and treatment of sexual health.

This Government has created a contradictory message with these amendments, which may, in fact, threaten public health. Further, despite "reasonable precautions" being included in the Act since it was introduced as a defence, it has not been defined nor is there any clarity as to what it means. In his second reading speech the Minister for Health seemed to equate it with the use of a condom. The combination of the requirement to take reasonable precautions with the increased penalties creates a real issue with this bill. People will be at risk of prosecution because these changes are being rushed through together.

The Government has failed to contemplate how the public health policy and the legal system will interact, and it has left significant gaps when it comes to education. For this change to be successful, the community at large would be required to have a comprehensive understanding of how different STIs can be spread and what precautions can be reasonably taken. While we support this bill in principle, we have some serious concerns. The Government should, as rapidly as possible, seek to address the vulnerabilities exposed by this bill and resolve the gap in education and awareness that it has created.

The Hon. PENNY SHARPE (20:31): I make a contribution to the debate on the Public Health Amendment (Review) Bill 2017. I note that the bill makes a number of changes to the Public Health Act as part of the statutory review of that Act. The bill is an omnibus bill and it covers a range of different issues including vaccination in childcare centres, the supply of drinking water, eyeball tattooing, skin penetration procedures, measures to curb legionella, safeguards on the disclosure of HIV-AIDS, measures on persons engaging in sexual activity when they are aware they are infected with sexually transmitted infections, and public health orders in relation to some diseases and conditions such as severe acute respiratory syndrome [SARS], Middle East respiratory syndrome [MERS], Ebola and HIV-AIDS.

I will confine my remarks to the part of the bill relating to HIV. I start by congratulating the Government on the work it has done to try to end HIV in this State. I will talk briefly about the release put out by NSW Health on 23 August, which spoke about the recent testing regimes showing that HIV is a step closer to becoming eliminated in New South Wales following a rapid fall in diagnosis to record low levels, according to the latest NSW HIV Data Report. I note, however, how long it has taken New South Wales to be in this position. New South Wales is now the world leader in stopping the transmission of HIV-AIDS.

When the epidemic started and the disease came to light, New South Wales was prepared to take difficult, bipartisan decisions—decisions that ultimately saved thousands and thousands of lives. We did that not only because we had to, but also because we had a level of maturity in our politics where, even though we did not

understand what was going on at the time, we decided to go with the best scientific evidence that we had. We should be congratulated on that because we have saved literally thousands of lives. I always take an interest in what is going on with HIV and the way that we deal with it in this State. The change to section 79 in relation to some of the disclosure laws is welcome. That is a really big step forward and it is long overdue.

Again, it follows the evidence of where we are at in relation to this disease and the way we are dealing with it in this State. I place on record my concern about the increased sanctions in new section 79—the $11,000 fine and the possible jail sentence. This is a major departure from the way in which we have dealt with HIV in the past. Yes, there have been previous criminal sanctions, which are in the bill, but they were targeted very specifically at sexual activity in public places. This bill introduces jail time for people in private settings, which is quite a change. I am glad that the Government took up the suggestion in the review, but it is important to note that this is a departure from the way we have dealt with this issue before.

I bring to the attention of the House the concerns that groups such as the AIDS Council of New South Wales, NSW Users and AIDS Association, Positive Life, Hepatitis NSW, Sex Workers Outreach Project, and the HIV/AIDS Legal Centre have raised in relation to this bill. Those organisations did not do this because they are trying to be tricky; they did this because they have been at the forefront of dealing with the transmission of HIV in this State since day dot. In the past we listened to them very closely and backed them—and they were right. They were big contributors to why we have achieved such a fantastic outcome in heading towards the virtual elimination of HIV transmission in this State. We need to stop and think about that: We are literally on track to stop the transmission of HIV in New South Wales. Nowhere else in the world is even close to that.

I cannot let this bill pass without commenting on the serious concerns that have been raised about this change. We have been successful because we have made long-term investments in educating communities, we have been prepared to be open about the way in which HIV is transmitted, and we have been willing to work with affected communities. We have worked hard to get the message across to people that it is okay to be tested and that we want them to be tested. At the moment in this State there is testing in nightclubs and in the streets. There were 33,000 new tests in the last quarter. That is what will stop the transmission of HIV/AIDS. Putting people in jail will not stop it; it will be stopped by people getting tested early and often so they know their status and can take reasonable precautions to make sure that no-one else contracts it.

We need to understand the way in which this disease operates and its changing nature. Some provisions in legislation were introduced in 1991, at the height of the epidemic. Back then I was fighting on campus to get sharps bins installed so that cleaners did not get needle-prick injuries. That is a long time ago, and things have changed. There have been some positive steps forward, but we need to keep a close eye on this development because putting people in jail is not going to help. We need to be very serious about that. In November 2016 a group of HIV/AIDS doctors and specialists who are some of the heroes of this epidemic—and who know more about this subject than we could ever pretend to want to know—put out a consensus statement. The group made two recommendations. It said:

> Scientific evidence shows that the risk of HIV transmission during sex between partners of different HIV serostatus can be low, negligible or too low to quantify, even when the HIV-positive partner is not taking effective antiretroviral therapy, depending on the nature of the sexual act, the viral load of the partner with HIV, and whether a condom or pre-exposure prophylaxis is employed to reduce risk.
>
> Given the limited risk of HIV transmission per sexual act and the limited long term harms experienced by most people recently diagnosed with HIV, appropriate care should be taken before HIV prosecutions are pursued. Careful attention should be paid to the best scientific evidence on HIV risk and harms, with consideration given to alternatives to prosecution, including public health management.

This is one of the things we can all claim as a really important win, and the bill takes us a little further forward. It contains lots of other great stuff, which other members have talked about. But we should be very wary. If I am here in two years time when the review is completed, we will look at it closely. The change is unnecessary. We should learn from history and what we have won already. We must keep moving forwards, rather than taking steps backwards.

Mr JUSTIN FIELD (20:39): I speak for The Greens in debate on the Public Health Amendment (Review) Bill 2017. I thank my colleague Ms Dawn Walker for leading on this bill as The Greens health spokesperson. I will speak specifically to the provisions relating to vaccine-preventable diseases. I do this as The Greens early education spokesperson and with a view to ensuring that, while we work to improve public health outcomes, we ensure we retain access to quality early learning opportunities for young people across the State. The provision in the bill is known as a "No Jab, No Play" policy. Explicitly, children who are not up to date with vaccinations will not be allowed to attend childcare facilities or participate in preschool. The Greens have always supported measures to improve public health outcomes and to promote greater public investment in medical research to that effect. Vaccinations have been a major advance in public health, saving the lives of countless millions of children and adults.

I will restate in large part my contribution to debate on the Public Health Amendment (Vaccination of Children Attending Child Care Facilities) Bill 2017, which addresses many of the issues that arise in this bill. In that speech I acknowledged the record of The Greens in advocating for a science-based approach to public health and vaccinations. I acknowledged, in particular, the contribution of the late Dr John Kaye in debate on the 2013 bill of the same title. I encourage members and those who may be reading this debate in *Hansard* to seek out Dr Kaye's 2013 speech, which lays out the scientific case for vaccinations. His nuanced contribution recognised that there were gaps at that time in the proposed legislation and he sought to improve the legislation around the question of conscientious objectors and to limit the grounds on which that objection could be made. That was opposed at the time by both the Government and the Labor Party. I will return to those issues later.

Among other things, the bill will require that, before children are enrolled in childcare, parents will have to provide evidence that their child is either up-to-date with vaccinations, on a catch-up schedule or has medical contraindications to vaccinations. This excludes the former provision of conscientious objections as an exception to the legislation. It will be an offence for the principal of a facility not to comply with the bill. This means that only children with a medical contraindication certificate will be able to enrol in a childcare facility. This includes long day care centres, family day care, and community-based private and government preschools. The bill introduces a penalty for principals of up to $5,500 if a child attends who does not have a valid certificate.

I welcome the special provisions for children in out-of-home care for protection as well as Aboriginal and Torres Strait Islander children whose parents or carers may have challenges in obtaining the documentation and will be provided with additional time to comply with the law. This will go some way to addressing the concerns that have been expressed to me for children who are in these circumstances. The Greens recognise the immense health benefits of vaccinations, both to individuals and to the wider community. We support in principle what this bill is seeking to achieve, which is to reduce the incidence of vaccine-preventable diseases within our community. The Greens believe in evidence-based policy. In the context of this bill, we expect the Government to be able to provide evidence of the public health benefits of new legislation or policy.

Since the Federal Government's "No Jab, No Play" policy was introduced, evidence suggests that there has been a small increase in vaccination rates. However, a thorough analysis has not yet been completed of the program and its effects. It seems hasty to take another even more punitive approach without fully understanding the consequences of the Federal regime. At this point I will take a moment to address the amendment to the question moved by the Christian Democratic Party. I understand the reason the amendment has been put. I think there are benefits in our examining some of the questions that have been raised in the proposed terms of reference.

However, as this bill deals with a range of amendments to the Act, The Greens will not support this amendment because we do not think it is appropriate. I am on the portfolio committee, and should a proposal for an inquiry be passed, committee members will look at the terms of reference at that point.

Let us be clear—the Government and this Parliament in passing this legislation will take a position that will probably result in a number of children being removed from early education and care. There is a risk that by removing the conscientious objector provision in full, those parents who, for whatever reason but overwhelmingly with the best intention about the care of the children, choose to not vaccinate may make the choice to withdraw their children from care and early childhood education opportunities, instead of putting their children on a catch-up schedule and getting them vaccinated in full. This is not an argument to reject the bill, but it is something we should be conscious of when considering how best to improve outcomes for public health and social outcomes more generally.

There is also the possibility of illegal care arrangements and informal care arrangements being set up as a result of this bill. Those people who are conscientious objectors and have chosen to opt out of care because they believe their views have not been respected in this perceived punitive approach may join others and become even more isolated in their communities and more insulated from mainstream and science-based views about health care and child care. There are some risks and potential consequences from passing this legislation. Only a few contributors to the debate on this legislation have been prepared to acknowledge those risks—largely contributions from those who sit on the crossbenches. But parents who have already chosen to forgo childcare subsidies because of being behind on the vaccination schedules are seen as vaccination hesitant or anti-vax. What evidence is there that they will change their position because there is a move from "No Jab, No Pay" to "No Jab, No Play"?

This is a critical question because if this legislation does not further increase vaccination take-up, all that will result is that a small group of children—I recognise that it is a small group—will now miss out on early education and care. I have asked the Government what analysis has been done in regard to likely improvement rates that will result from this next round of punitive measures, but it could not tell me. In contrast, no end of studies show both the educational and long-term health and wellbeing outcomes of access to high-quality early education and care. It is reasonable for this Parliament to ask whether or not these types of powers will have the intended effect, and that the benefits are not outweighed by unintended consequences.

This bill creates a precedent; we should be clear about that. A section of the community will be unable to access public education because this bill will stop unvaccinated children from attending public preschools. I am not sure whether that has happened in this State before now. I acknowledge the contribution of the Hon. Mark Pearson of the Animal Justice Party. He recognised the challenges of this approach to bodily autonomy. That has not been adequately considered in the contributions to this debate so far, and I congratulate the member on his very good contribution. The case has been made that we do not give parents personal choices to educate their children, so why give them the choice not to vaccinate? There is a risk that people will remove their kids from some of the most valuable education experiences—that is, early childhood educational opportunities.

These are the sorts of consequences that were foreseen by Dr John Kaye and contained within amendments that he moved in 2013. He made the case that the conscientious objector provisions should remain and that we should recognise that some people legitimately have concerns about vaccinating their children. He said that these provisions should not be about personal, philosophical, religious or medical beliefs but available only to those concerned about whether there is sufficient scientific evidence to justify vaccination, and there is scientific evidence that could cite that vaccination constitutes an unacceptable health risk for the child.

It seems counterintuitive, but the point of the amendment was that it makes no sense for a medical practitioner to engage with the person presenting with a personal, philosophical or religious belief and that those reasons should not qualify a person to be identified as a conscientious objector. How can a medical officer consider those types of beliefs? The flip side is that if a person has concerns about efficacy or risk when it comes to vaccination the provision acts as a point at which a medical practitioner can engage with that person, a potential intervention point to demonstrate to that parent the value of vaccination and allay some of their concerns.

We will potentially lose that opportunity—that essential educative opportunity for a person with genuine concerns to engage with a medical practitioner and hear that advice firsthand. I see that as a missed opportunity with the changes to this bill. It was a smart amendment and an approach that sought to create maximum opportunity to engage with conscientious objectors or vaccination-hesitant parents. This bill will make that provision redundant which poses the risk that those people will withdraw further away from the system of public health and education. That is something we should consider to ensure it does not occur. One way we can do that is to increase and target vaccination education programs. My challenge to the Government, and to all in this place is to find and fund ways to improve public communication about individual and public health benefits across the board—not only vaccinations. In many areas of public health we do not adequately provide information and education at the right points to parents, families and the community to improve public health outcomes and social outcomes.

In my speech on the Labor bill I noted a couple of articles that showed why education on the benefits of vaccinations is so important. I can reiterate some of arguments as they are still relevant. An article in April in the *Sydney Morning Herald* entitled "Address vaccination concerns to keep immunisation rates up" referred to a recent research paper published by the Royal Australian College of General Practitioners that found that more than half of the parents who immunised their children reported some unease. Margie Danchin, Senior Research Fellow and general paediatrician at the Murdoch Children's Research Institute, who co-authored the paper, said that doctors needed resources and support in addressing concerns. She also said:

> Even though there is strong support for vaccination, we found that just over half, had some degree of concern, from mild concerns all the way up to those who were refusing vaccines.

She warned:

> If we don't start looking at interventions and ways to address parents' concerns along that spectrum, then how are we going to maintain confidence in the national immunisation program and make sure those rates don't drop and, in fact, that they go up.

There are not just people who are pro-vaccination and those who are against vaccination. This study shows that despite Australia's high rates of childhood immunisation there is significant hesitancy in the general community. Demonising people who have mild concerns does not lead to improvements, and solely punitive and coercive measures will do little to address that latent hesitancy and potentially make it even worse. The report showed that the Australian experience is consistent with international findings and the focus has to be on an education program and supporting doctors and health professionals to get out a positive message. Some of that hesitancy results from significant changes to the vaccination schedule over time.

When I was born a dozen or so—almost 20 doses in 10 or more injections—were routinely given to children three months of age or older. Today around 50 doses are given. I do not think parents, families or the community understand why those changes have been made. The public health system has failed to make that clear. I do not think this bill does anything to improve our understanding of why those changes have been made or why they are important. These changes and new vaccinations are a measure of medical advances, but such a rapid rate of change requires the public to fully understand how and why a vaccination regime is important. While we are

having this debate, it is important to put into context broader vaccination issues in Australia. In March an article in the *Sydney Morning Herald* entitled "Intense targeting of anti-vaxxers misguided: most under-vaccinated Australians are adults, experts say" rightly points out:

> The babies and preschoolers of parents opposed to vaccinations are the unrivalled targets of government and media focus surrounding immunisation rates, the children of anti-vaxxers and vaccine-hesitant people form a tiny subset of Australia's under-vaccinated population.

In fact, the majority of undervaccinated Australians are adults. The article quotes Dr Menzies, a communicable disease expert at the University of New South Wales School of Public Health and Community Medicine as saying:

> People love talking about vaccine-hesitant parents. The media and politicians love targeting them, but at the end of the day the numbers are not going to make much difference …"Australia has high childhood immunisation rates by international standards", Dr Menzies said, with more than 90 per cent coverage for all recommended vaccinations by the age milestones of one, two and five years… Evidence-based strategies to improve childhood vaccination rates were admirable, "but the main game has to be adults", Dr Menzies said.

It is the case that over 65s have the lowest rate of vaccinations—our parents and grandparents, who continually come in contact with our children. These are some of the statistics worth considering in comparison to the 90 per cent childhood vaccination rates. The diphtheria, tetanus and whooping cough vaccine requires a booster at 50 years of age; pneumococcal is recommended for those over 65; in 2015, 47 per cent of people over 65 were vaccinated against pneumococcal; in 2015, 71 per cent were vaccinated against influenza. One of the significant risks from vaccine-preventable diseases to children comes from contact with adult friends and family who are not fully vaccinated. I raise these issues because the public is not well served when we have black and white arguments in this Parliament. We ignore some statistics while amplifying others. There should be nuance in this debate because there is complexity in this issue.

No-one goes out of their way to put children at unnecessary risk of harm from disease, not even parents who have been persuaded by what they have read on the internet or heard from their friends and chosen not to vaccinate their children. And certainly not those—around half of the population—who have some degree of hesitancy. They want to do the best by their children. Our job is to make the better case, build confidence in public health programs and, yes, to nudge and coerce where we need. A purely punitive approach seems like the wrong one. The Greens will support this bill. We support improvements in public health and acknowledge the importance of the vaccination regime in Australia. I ask the Government to critically look at the outcome of these measures once they are in place. If they are not delivering better outcomes or have perverse outcomes, let us come back together to look at other measures, particularly around greater education and awareness.

The Hon. Dr PETER PHELPS (20:56): I speak in debate on one very narrow section of what is otherwise an unobjectionable bill and in many respects an excellent bill which goes a long way towards the health of individuals in this State. I speak on the proposed amendments to section 79 of the Public Health Amendment (Review) Bill 2017. For those members who have not read it, section 79 of the current Public Health Act states:

> (1) A person who knows that he or she suffers from a sexually transmitted infection is guilty of an offence if he or she has sexual intercourse with another person unless, before the intercourse takes place the other person:
>
> (a) has been informed of the risk of contracting a sexually transmitted infection from the person with whom the intercourse is proposed, and
>
> (b) has voluntarily agreed to accept the risk.
>
> Maximum penalty: 50 penalty units.

That is 50 penalty units or $5,500. The Parliamentary Secretary was not accurate in his second reading speech in relation to what the proposed amendment does. It does not propose to add a new requirement that a person take reasonable precautions against spreading the disease or the condition. That was a subsequent amendment to the original strict liability offence of not telling someone that you had a sexually transmitted disease before intercourse. Subsequent to the original Act, subsection (3) was passed, and it states:

> (3) It is a defence to any proceedings for an offence under this section if the court is satisfied that the defendant took reasonable precautions to prevent the transmission of the sexually transmitted infection.

The new amendment proposes to remove the requirement for notification but retain in place not so much a defence but a new offence based on not taking reasonable precautions. In other words, by reversing it the defence becomes a prosecutorial action. I have to ask, Why was that the case? I thank the Minister for Health who arranged to meet with me with a number of his officials and discuss why this was put in place, because on the current reading of the Act and indeed on the new proposed section 79 it could relate to anything.

It could relate to any of the sexually transmitted diseases such as gonorrhoea, syphilis, genital warts or HIV.

The Hon. Trevor Khan: Chlamydia.

The Hon. Dr PETER PHELPS: Chlamydia, and arguably the hepatitis strains. Essentially I was told by the officials that it was raised because of HIV. The reasoning they used for the change was their belief at the time that the requirement to inform a person that you have a sexually transmitted infection acted as a barrier to people seeking out knowledge as to whether they were HIV positive. In other words, if I am ignorant then I do not have to tell anyone. I thought that was an unconvincing argument. I thought it was even more unconvincing when the New South Wales Chief Health Officer, Dr Kerry Chant, in the week immediately following our meeting with health officials stated: "We have seen new diagnoses among gay and bisexual men falling steadily for 12 months now, despite an increase in HIV testing".

In a statement given the week following the briefing, the Chief Health Officer disproved the argument that in some way the current law acts as a detriment to HIV testing. By any standard, rates of HIV testing amongst gay men in Australia, in New South Wales in particular, are amongst the highest in the world. The argument that it is ostensibly a detriment to testing is fatuous. What is the real reason? There are a number of clinical studies which indicate why this might be the case and why health officials might be wanting to amend the legislation. There is one particular study in Australia, and is mirrored in United States studies, which shows why pre-sexual notification of partners does not take place. They are entirely reasonable and rational reasons. The first is embarrassment and fear of rejection. Lord knows it is hard enough to find love, but having to tell someone before sex that you have a sexually transmitted infection would be terrible.

The second most important reason given by gay men as to non-disclosure is fear of outing, gossip, murmurings in the community and it being known you are HIV positive. I do not discount those reasons. They are reasonable, logical and fundamentally human reasons as to why you would not tell someone. What we have here is a conflict between rights. The key point is: Does a person's fear of rejection override the physical security of another individual? That is what is at stake here. The option for someone to say: "I am sorry, I really like you but I cannot have sex with you" is the essence of what so many people talk about these days, that is, informed consent. Are you fully informed of the consequences of your sexual activity?

Unfortunately, what we have here is a situation where informed consent can be wilfully withheld. It is true that people have to take all reasonable precautions against spreading the disease or condition. But the Minister has proposed only one thing this evening, that is, put on a condom. What happens if the condom breaks? Is that reasonable? What happens if a person uses a cheap, low-quality condom? Is that reasonable? What is the reasonableness test? As The Greens pointed out—they stole my thunder slightly—when the monetary penalty is doubled and a six-month imprisonment potentiality added, what is reasonable in those circumstances?

What is reasonable in those circumstances? It is not as if there is a host of black-letter law against which we can adjudge the reasonableness of two people fumbling around in the dark in the heat of passion, probably having had a few drinks. I am not sure that "sorry about that" is an effective policy prescription. I am sure that giving people the ability not to partake in sex—that is, to apply the ultimate prophylactic of abstinence—is a good thing. At least if someone were told beforehand they could say, "Fine." Someone could be asked, "Do you have an undetectable viral load?" In response they could then say, "Fine, we will use a better quality of condom," "Fine, we will do something else," or, "I am sorry, I like you, but I do not want to have sex with you in those circumstances." That is the basis of informed consent.

The other thing that worried me in my meeting with the NSW Health officials was that they talked about the public message about safe sex. They believed that one useful public policy message was that every gay man should assume that every other gay man is HIV positive, even if they can adduce evidence to the contrary, and even if they have their latest viral load report. Can members imagine what would happen if a conservative political figure were to say that everyone should assume that a gay man is HIV positive? Yet, that is the inherent thinking behind that proposal. I can see from a public health point of view why they would agree to that. They would say that it would be great; if we assume that everyone is HIV positive there will be a 100 per cent take up of prophylactic measures. I am not sure whether that has any grounding in reality or whether the message implicit behind it is necessarily good. However, it is not merely this, and it is not about HIV. I raised a problem that came up recently, that is, the new strains of untreatable gonorrhoea. I was told there was nothing to worry about. However, a *Sydney Morning Herald* article states:

> The early warning system for the potentially dangerous spread of the critically antimicrobial resistant bugs (CARs) found a strain of a gonorrhoea-causing bacterium—*Neisseria gonorrhoeae*—was the most frequently reported and most stubborn superbug between December and March, according to program's first publicly available report, to be released on Wednesday.
>
> The rise of the resilient bacterium, combined with a rise in gonorrhoea cases nationally, leaves patients with no effective treatment options and aids the spread of the sexually transmitted infection...

> The antibiotic azithromycin had become close to useless against the strain, which accounted for almost two thirds of all superbugs detected in February and March and the number of reports had increased threefold in NSW and Western Australia, the Commission found.

Again, I am not sure how NSW Health officials can tell me that we do not have to worry about untreatable strains of gonorrhoea. The first reports, which have now been released, indicate that that is not the case. However, I am not sure many people would say, "I would like to remain ignorant about whether my sexual partner has untreatable gonorrhoea." I am also not sure that many people believe the power of rubber is so great that it can withstand anything likely to occur during sexual activity. It is true that no-one has ever been prosecuted under existing section 79 because there is the existing defence that if they took "reasonable precautions" they could not be charged. Where they had not taken reasonable precautions, they would find their way into the Crimes Act and be prosecuted for assault occasioning one of the various bodily harms.

There has been no prosecution. There has also been no prosecution under section 20 of the Racial Discrimination Act in New South Wales, but nobody is suggesting we should abolish that section. Why? Because in this instance they both present a standard of behaviour that is expected of people in the community. It is a standard of behaviour that the Parliament says we think is reasonable. I have no dog in this fight. I will vote for the bill, but I thought it was important to raise this point. I am not a gay man and I do not purport to have any understanding of that community.

We know from the study in Michigan in the United States that those who were aware of a comparable law were more likely to disclose. Not everyone did, for the reasons that were given, but where the law existed and people knew about it, gay men were more likely to disclose their status than those in jurisdictions where there was no requirement. The other thing we know not only from that study but also from an earlier study in Arizona is that gay men actually prefer that disclosure takes place. In spite of all the difficulties that can come from pre-sex disclosure, the overwhelming majority in both instances preferred disclosure to take place.

As the Hon. Penny Sharpe said, it is great that we face a situation where effectively the disease will be eliminated by 2020. A pre-exposure prophylaxis in chemical form or, alternatively, widespread use of barrier methods combined with antiretroviral drugs will push down viral loads, particularly in the latter case, to undetectable levels to the point that, in many cases, a prophylaxis will not be needed from a clinical perspective. That is not to say that it should not happen, but the point is that the current nature of the successful antiretroviral drugs, combined with PrEP medicines means we may have extinguished the disease by 2020.

That still does not get over the fundamental point, which is: If a person believes in informed consent prior to sex, it should be a standard that is applied for sexually transmitted diseases as well. If a person does not accept that disclosure is necessary, they are effectively saying that a person can con their way into sex. I do not think that is appropriate. I recognise the problems of individual fear of rejection and exposure, but from my point of view as a classical liberal I do not see how they possibly can or should override the physical security of another individual.

The Hon. SCOTT FARLOW (21:13): On behalf of the Hon. Niall Blair: In reply: I thank members for their contribution to debate on the Public Health Amendment Review Bill 2017. In particular, I thank the Hon. Walt Secord, the Hon. Paul Green, Reverend the Hon. Fred Nile, the Hon. Mark Pearson, Ms Dawn Walker, the Hon. Penny Sharpe, Mr Justin Field and the Hon. Dr Peter Phelps for their contributions. I will address some issues that were raised in debate, in particular, why this legislation is needed and the time constraints around it. It was noted by Reverend the Hon. Fred Nile that there was an imperative time constraint.

The national cancer register is due to commence in November or December 2017. New South Wales needs time to notify stakeholders and so it is important that this bill passes as soon as possible. There has been some commentary with respect to new section 79. The bill amends section 79 of the Public Health Act to remove the requirement on persons with a sexually transmitted infection [STI] to notify their partners before they have sex. Section 79 (3) of the Act provides:

> It is a defence to any proceedings for an offence under this section if the court is satisfied that the defendant took reasonable precautions to prevent the transmission of the sexually transmitted infection.

The bill requires that a person with an STI that is a scheduled medical condition or notifiable disease take reasonable precautions against the spread of the infection. STIs that are scheduled medical conditions or notifiable diseases include chlamydia, gonorrhoea, syphilis, HIV and hepatitis B. New South Wales is the only jurisdiction that requires persons with an STI to notify their partners before they have sex. The review of the Public Health Act found that section 79 is not aligned to public health messages that focus on safe sex. Further, the review found that there was no evidence that the requirement for disclosure is effective in preventing the spread of STIs. The disclosure requirement can also create a false sense of security in that people may think if a person does not tell

them they have a STI there is no risk. There was also concern that section 79 contributed to stigma and discrimination against persons with an STI, particularly HIV, and may in fact deter people from testing.

The bill requires that a person with an STI take reasonable precautions against its spread. It is not unreasonable to expect that if a person knows they have an STI such as HIV or syphilis they take reasonable precautions against its spread, which is vitally important. Public health messages telling people to use condoms to prevent the spread of STIs have been in place for decades. It is a basic and well-known public health message that people need to use a condom if they have an STI. In addition, recent evidence relating to HIV shows that having an undetectable viral load as a result of being on treatment can virtually eliminate the risk of transmission of HIV. The ministry can work to ensure that the community is aware of what are reasonable precautions.

The penalty contained in new section 79 is in line with the current penalty in section 52 of the Act. That section makes it an offence for a person with a scheduled medical condition to fail to take reasonable precautions against its spread in a public place. The penalty in section 52 is 100 penalty units and/or six months imprisonment. It is therefore appropriate to align the penalty in new section 79 with the current penalty in section 52 of the Act. The Public Health Act is the primary public health legislation in New South Wales. It is vital that it remains up to date and relevant to ensure that it can properly prevent the spread of disease and protect the public from serious public health risks. The recent review of the Public Health Act found that it was working well but a range of changes could be made to better protect public health. This bill seeks to implement the recommendations and ensure that the Act can operate in the most effective way to protect public health. I commend the bill to the House.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): The question is that this bill be now read a second time, to which Reverend the Hon. Fred Nile has moved an amendment. The question is that the amendment be agreed to.

The House divided.

Ayes 3
Noes 33
Majority.....30

AYES

Green, Mr P	Nile, Reverend F (teller)	Pearson, Mr M (teller)

NOES

Amato, Mr L	Blair, Mr N	Buckingham, Mr J
Clarke, Mr D	Colless, Mr R	Cusack, Ms C
Donnelly, Mr G	Fang, Mr W	Farlow, Mr S
Faruqi, Dr M	Field, Mr J	Franklin, Mr B (teller)
Graham, Mr J	Harwin, Mr D	Khan, Mr T
MacDonald, Mr S	Maclaren-Jones, Ms N (teller)	Mallard, Mr S
Martin, Mr T	Mitchell, Ms S	Mookhey, Mr D
Pearce, Mr G	Phelps, Dr P	Primrose, Mr P
Searle, Mr A	Secord, Mr W	Sharpe, Ms P
Shoebridge, Mr D	Taylor, Ms B	Veitch, Mr M
Voltz, Ms L	Walker, Ms D	Wong, Mr E

Amendment negatived.

The PRESIDENT: The question is that this bill be now read a second time.

Motion agreed to.

In Committee

The CHAIR: There being no objection, the Committee will deal with the bill as a whole.

The Hon. WALT SECORD (21:29): I move Opposition amendment No. 1 on sheet C2017-067A:

No. 1 **Annual reporting of public health orders made**

Page 10. Schedule 1 [56], proposed section 131A, line 39. Insert "(including specifying the conditions to which those orders related and the number of orders made in relation to each of those conditions)" after "section 62".

I move this amendment as the shadow Minister for Health. As the other amendments I wished to move were moved by the member for Sydney in the other House, I will be brief. This amendment is about openness and transparency and I am pleased that the Government has indicated it will support it. The legislation proposes that the Health secretary will publish the number of public health orders issued. Labor suggests that the secretary publish a list of the individual public health orders by disease or condition and spell out the number of orders made in relation to those conditions.

The Hon. SCOTT FARLOW (21:30): The Opposition proposes an amendment to section 131A in relation to information to be provided in the Ministry's annual report regarding public health orders. The Opposition amendment will require the annual report to include details not just on the number of public health orders made each year but also information about the conditions to which the orders relate. It would be expected that the Ministry's annual report would include such details. Details of the number of orders and the conditions to which the order applies would provide appropriate oversight of the making of public health orders. The Government supports the amendment.

The CHAIR: The Hon. Walt Secord has moved Opposition amendment No. 1 on sheet 2017-067A. The question is that the amendment be agreed to.

Amendment agreed to.

The CHAIR: The question is that the bill as amended be agreed to.

Motion agreed to.

The Hon. SCOTT FARLOW: I move:

That the Chair do now leave the chair and report the bill to the House with an amendment.

Motion agreed to.

Adoption of Report

The Hon. SCOTT FARLOW: On behalf of the Hon. Niall Blair: I move:

That the report be adopted.

Motion agreed to.

Third Reading

The Hon. SCOTT FARLOW: On behalf of the Hon. Nial Blair: I move:

That this bill be now read a third time.

Motion agreed to.