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Bill No. 114 – Health Care Directives and Substitute Health Care Decision Makers Amendment Act, 2013

Mr. Forbes: Thank you very much, Mr. Speaker. It's a pleasure to rise tonight and enter into the debate on Bill No. 114, *An Act to amend The Health Care Directives and Substitute Health Care Decision Makers Act*. And as I understand from the minister's remarks, this is part of their suite of legislation to improve the protection of vulnerable adults, and this one deals with health care issues. And this is a significant issue and I'm looking forward to hearing more about this in committee or however it might come forward, the work that has been done and how these all tie together. But they are important pieces of legislation.

And I think that we all can think of our own personal experiences, whether as MLAs [Member of the Legislative Assembly], in our role in that position in our communities where people ask or talk about difficulties around some of the decisions that have to be made and how do they get made and how do we ensure that the right people are making those decisions and how do we keep that language current in today's society.

So this is an interesting piece of legislation. Interesting as well that, you know, the Minister of Justice is doing a lot of the bills here, and I think that it's been interesting. I always look to see who he has consulted with and how many different groups he's consulted with. And in this case, he talks about that more than 100 groups and individuals were consulted, including people in the area of health and mental health, advocacy groups for persons with disabilities, senior groups, and many more.

So that would be interesting, and I hope that we can share that and we can hear some of who those groups were and what they talked about and whether they spoke specifically to this or were to the other two pieces of legislation. I'm interested in that for sure. And we'll be asking a question about that so we can get more information hopefully that can help us as we ensure that this piece of legislation is right on the mark, its impact is exactly as people want it to be and it should be, and there are no unintended

consequences. That's very, very important.

As the minister talked about, the first gap that was identified by the health care sector was decision making for day-to-day decisions for those adults who are not capable of consenting to health care. And whether they are minor decisions — i.e., dental work, that type of thing or even more — it's important to have that.

The second one went to the ability to apply to admit a person to long-term care or placement or accept placement of the person into long-term care. And apparently up to this point there was no clear legislation who would have that authority, and it talks about how we now have much more clearer direction because of the Act. And I just want to take a moment to talk about that because what it says here in the Act that, and this is I guess the ranking of who gets to make, who gets to be in that decision-making process. Who is the nearest relative? And I'd like to read this into the record:

15(1) Subject to subsections (2) and (3), a nearest relative is, with respect to a person requiring treatment mentioned in section 16, the person first described in the following clauses who is willing, available and has the capacity to make a health care decision.

So those three items: willing, available, and the capacity. So you have the spouse, (a) the first person is:

- (a) the spouse or person with whom the person requiring treatment cohabitates and has cohabited as a spouse in a relationship of some permanence;
- (b) an adult son or daughter;
- (c) a parent or legal custodian;
- (d) an adult brother or sister;
- (e) a grandparent;
- (f) an adult grandchild;
- (g) an adult uncle or aunt;
- (h) an adult nephew or niece.

And then:

(2) For the purposes of subsection (1), the relationships listed in clauses (1)(b) to (h) include adoptive relationships.

Now what I find interesting though is, so in some of these, obviously with spouse there's only one, but adult son or daughter there could be more than one. So how do you establish who has priority? Is it down from the oldest son, daughter? Does it go down that

way? Who lives closest to the parent? How do we decide that? Adult brother, sister — the same thing. So I'd be curious to know if there's more details and that would be one question I might have later on.

But I think it's important, but I understand . . . Well I think that is one thing that we should talk a bit about. So and then, Mr. Speaker, the final amendment is about clarifying an enduring power of attorney. So that relates back to the other two pieces of legislation that we have.

So relatively a short speech by the minister. An important area though, and I think as we think about, as we have an older aging society that it's an important one, an important one. And it's one that as families do move about the country — brothers, sisters, nephews, nieces, aunts, uncles — it can be quite a distance apart. And so it's important to have these done.

And I appreciate with 100 different consultation pieces in place that clearly there's been potentially some very good consultation. But I guess the question is, I would like to hear more about what they had said about vulnerable adults, protecting them. And we'll be definitely doing our due diligence to talk to some of these groups in terms of what else had they talked about. What else had they identified as issues? Because clearly this is an important area, and does this piece of legislation meet the mark? Do the other two pieces of legislation meet the mark? And do they feel like they were properly listened to? And the comments they made, were they incorporated? Were they dropped off the table? Because sometimes we hear that and hear that some of the issues that people did identify were dismissed, and unfortunately this government's getting a bit of a reputation for that.

So in this case, I know there will be others who want to speak to this issue. And I know that they'll want to say a few things over the next days and weeks, and we'll be consulting with the people that have concerns in this area throughout the province. We want to make sure that they have their opinions heard, and if there are questions that they should be, thinking we should be raising, we definitely will be doing that.

And of course I know, particularly when it comes to seniors, that this government is not meeting the mark, particularly when we talk in terms of health care or personal long-term care homes, that people do have concerns about so many issues, that we'll probably hear an awful lot of other issues that they'll bring up. And while we focus on this, we want to make sure all their concerns are brought to the floor of the legislature. After all, that is our job, and we will do that job. And I know the government sometimes doesn't want to hear that, and we can tell that they get frustrated that actually people are talking about the concerns about the kind of attention that seniors are getting in Saskatchewan when they should be getting so much more, so much more.

So with that, Mr. Speaker, I would like to move adjournment of Bill No. 114, *An Act to amend The Health Care Directives and Substitute Health Care Decision Makers Act*. I do so move. Thank you.