

Legislative Council—No 284

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South Australia

**Health and Community Services Complaints
(Miscellaneous) Amendment Bill 2017**

A BILL FOR

An Act to amend the *Health and Community Services Complaints Act 2004*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

- 5 This Act may be cited as the *Health and Community Services Complaints (Miscellaneous) Amendment Act 2017*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

- 10 In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Health and Community Services Complaints Act 2004*

4—Amendment of section 4—Interpretation

- 15 (1) Section 4(1)—after the definition of *confidential information* insert:
corresponding law means a law, or part of a law, of a State or a Territory of the Commonwealth declared by the regulations to be a corresponding law for the purposes of this Act;
- (2) Section 4(1), definition of *registration law*, (c)—delete paragraph (c)

5—Amendment of section 25—Grounds on which a complaint may be made

(1) Section 25(5)—after "(as the case may be) and" insert:

, subject to subsection (6),

(2) Section 25—after subsection (5) insert:

5 (6) Despite subsection (5), a volunteer may be required to participate in proceedings under this Act and may be the subject of the exercise of power under Part 6 Division 2 if, in the circumstances—

(a) a code of conduct under section 56A(1) applies in respect of the volunteer; and

10 (b) the Commissioner is satisfied that conduct of the volunteer poses or has posed a risk to the health or safety of members of the public.

6—Amendment of section 56B—Interim action

(1) Section 56B(1)(a)—delete "under this Part,"

15 (2) Section 56B(1)(a)—delete " (a *prescribed health service provider*)"

(3) Section 56B(1)(b)—delete "prescribed health service provider" and substitute:

person

(4) Section 56B(2)—delete "prescribed health service provider" wherever occurring and substitute in each case:

20 person

(5) Section 56B(2)(a)—delete paragraph (a) and substitute:

(a) make an order prohibiting the person from doing 1 or more of the following for a period of 12 weeks or shorter period as may be specified in the order:

25 (i) providing health services or specified health services;

(ii) offering, advertising or otherwise promoting health services or specified health services (including where those services may be provided by another person);

30 (iii) holding themselves out or otherwise promoting themselves as a provider of health services or specified health services;

(iv) providing advice in relation to the provision of health services or specified health services (including where those services may be provided by another person);

(6) Section 56B(2)—after paragraph (b) insert:

35 (c) publish a public statement, in a manner determined by the Commissioner, identifying the person and giving warnings or such other information as the Commissioner considers appropriate in relation to the health services, or specified health services, provided by the person.

(7) Section 56B(3)—after "order" insert:

or public statement

(8) Section 56B(4)—delete "prescribed health service provider" and substitute:

person to whom the order relates

5 **7—Amendment of section 56C—Commissioner may take action**

(1) Section 56C(1)(a)—delete "under this Part"

(2) Section 56C(1)(a)—delete " (a *prescribed health service provider*)"

(3) Section 56C(1)(b)—delete "prescribed health service provider" and substitute:

person

10 (4) Section 56C(1)(c)—delete "prescribed health service provider" and substitute:

person

(5) Section 56C(1)(c)—after "public" insert:

in the provision of health services

15 (6) Section 56C(2)—delete "prescribed health service provider" wherever occurring and substitute in each case:

person

(7) Section 56C(2)(a)—delete paragraph (a) and substitute:

(a) make an order prohibiting the person from doing 1 or more of the following for a specified period or indefinitely:

20 (i) providing health services or specified health services;

(ii) offering, advertising or otherwise promoting health services or specified health services (including where those services may be provided by another person);

25 (iii) holding themselves out or otherwise promoting themselves as a provider of health services or specified health services;

(iv) providing advice in relation to the provision of health services or specified health services (including where those services may be provided by another person);

8—Amendment of section 56D—Commissioner to provide details

30 (1) Section 56D(1)—after "takes any action" insert:

against a person

(2) Section 56D(1)—delete "prescribed health service provider" and substitute:

person

9—Insertion of section 56EA

After section 56E insert:

56EA—Requirement to comply with interstate orders in this State

- 5 (1) A person commits an offence if—
- (a) an interstate order is in force in respect of the person; and
 - (b) the person engages in conduct in this State that would constitute a contravention of the interstate order if it occurred in the jurisdiction in which the order is in force.

10 Maximum penalty: \$10 000 or imprisonment for 2 years or both.

- (2) In this section—

conduct includes an act or omission;

15 *interstate final order* means an order, or order of a type, made under a corresponding law that is declared by the regulations to be an interstate final order for the purposes of this section;

interstate interim order means an order, or order of a type, made under a corresponding law that is declared by the regulations to be an interstate interim order for the purposes of this section;

20 *interstate order* means an interstate interim order or an interstate final order.

10—Amendment of section 75—Preservation of confidentiality

Section 75(1)—after paragraph (b) insert:

- (ba) when necessary for the purposes of a corresponding law; or

11—Amendment of section 77—Returns by registration authorities and prescribed bodies

- 25 (1) Section 77(1)—delete "A registration authority" and substitute:

A body to which this section applies

- (2) Section 77(1)(a)—delete "registration authority" and substitute:

body

- 30 (3) Section 77(3)—delete "registration authorities" and substitute:

bodies to which this section applies

- (4) Section 77—after subsection (4) insert:

- (5) This section applies to the following bodies:

- (a) a registration authority;
- 35 (b) a body prescribed by the regulations for the purposes of this section.