

House of Assembly—No 167

As received from the Legislative Council and read a first time, 26 August 2021

South Australia

**Health Practitioner Regulation National Law
(South Australia) (Telepharmacy) Amendment
Bill 2020**

A BILL FOR

An Act to amend the *Health Practitioner Regulation National Law (South Australia) Act 2010*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

Part 2—Amendment of *Health Practitioner Regulation National Law (South Australia) Act 2010*

- 4 Amendment of section 43—Supervision of pharmacies by pharmacists
 - 5 Amendment of section 46—Conditions
-

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

5 This Act may be cited as the *Health Practitioner Regulation National Law (South Australia) (Telepharmacy) Amendment Act 2020*.

2—Commencement

This Act comes 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 Practitioner Regulation National Law (South Australia) Act 2010*

4—Amendment of section 43—Supervision of pharmacies by pharmacists

(1) Section 43—after subsection (1) insert:

- 15 (1a) Subsection (1) does not to apply to a person who carries on a pharmacy business in circumstances where—
- 20 (a) the person is authorised by the Authority to operate the pharmacy business without a pharmacist being physically in attendance at the pharmacy; and
 - (b) a pharmacist is, by means of Internet or other electronic communication (other than communication of a kind specified by the Authority), in attendance during any period the pharmacy business is operating and is available for consultation by members of the public.

- (1b) The Authority may only grant an authorisation under subsection (1a)(a) in respect of a pharmacy if—
- (a) the pharmacy is located within a prescribed area; and
 - 5 (b) the authorisation is reasonably necessary to ensure that pharmacy services are available to persons who would not otherwise have direct and timely access to such services; and
 - 10 (c) the Authority is satisfied that a pharmacy services provider, who is proposed to provide pharmacy services as part of the operation of the pharmacy business without a pharmacist being physically in attendance at the pharmacy, has taken all reasonable steps to ensure that the provider will comply with a code of conduct applying to the provider under this Act in respect of such operation.
- (1c) An authorisation granted under subsection (1a)(a) will be subject to the following conditions:
- (a) any conditions prescribed by the regulations;
 - (b) any conditions imposed by the Authority.
- (1d) A condition of an authorisation under subsection (1c) may, without limitation—
- 20 (a) specify a pharmacy service, or pharmacy services of a class, which may not be provided while a pharmacist is not physically in attendance at the pharmacy pursuant to the authorisation; or
 - 25 (b) require the physical attendance of a pharmacist at the pharmacy at specified intervals; or
 - (c) specify staffing requirements (including staff qualifications) for a pharmacy while a pharmacist is not physically in attendance at the pharmacy pursuant to the authorisation; or
 - 30 (d) otherwise limit or restrict the circumstances or manner in which pharmacy services may be provided while a pharmacist is not physically in attendance at the pharmacy pursuant to the authorisation.
- (1e) The Authority may, by notice in writing to a person holding an authorisation under subsection (1a)(a)—
- 35 (a) vary or revoke a condition imposed under subsection (1c)(b); or
 - (b) impose a new condition in relation to the authorisation; or
 - (c) revoke the authorisation.
- (1f) A person must not contravene or fail to comply with a condition applying in relation to an authorisation granted under subsection (1a)(a).
- Maximum penalty: \$50 000.

(1g) Subsection (1b)(a) does not apply in circumstances determined by the Authority to be circumstances of an emergency.

(2) Section 43(4)—before the definition of *pharmacy* insert:

emergency includes an event (whether occurring in the State, outside the State or in and outside the State) that causes, or threatens to cause—

- (a) the death of, or injury or other damage to the health of, any person; or
- (b) the destruction of, or damage to, any property; or
- (c) a disruption to essential services or to services usually enjoyed by the community; or
- (d) harm to the environment, or to flora or fauna;

Note—

This is not limited to naturally occurring events (such as earthquakes, floods or storms) but would, for example, include fires, explosions, accidents, epidemics, pandemics, emissions of poisons, radiation or other hazardous agents, hijacks, sieges, riots, acts of terrorism and hostilities directed by an enemy against Australia.

5—Amendment of section 46—Conditions

Section 46—after subsection (5) insert:

- (6) A condition of the registration of a pharmacy that is inconsistent with section 43(1a) will, to the extent of the inconsistency, be taken to be modified to give effect to that section.