

# Health Complaints Act 2016

## Implications for alcohol and other drug health service providers

### Background

In April 2016, the Parliament passed the *Health Complaints Act 2016* (the Act).

Under the new legislation, the existing Health Services Commissioner will be replaced by a new watchdog, the Health Complaints Commissioner. The new Commissioner will have greater power to take action against dangerous and unethical health providers who are not registered under national health practitioner regulation law.

In a major change, the Act will allow anyone to make a complaint, rather than just the person who received the health service. The Commissioner will also have the power to investigate a matter that could have been the subject of a complaint even when no complaint is lodged, for example, if the media have uncovered a provider making false or harmful claims.

### Are Victorian alcohol and other drug providers captured under the Act?

Yes. Under the new Act (as under the previous Act), it will be possible for complaints to be made about any alcohol and other drug health service provider in Victoria. This includes:

- Public and private alcohol and other drug health service providers
- Registered and unregistered health service practitioners
- Individual practitioners and health service organisations

### Who else is covered by the Act?

The Commissioner will be able to receive complaints about registered health service providers who are from one of the 14 health professions registered under the Health Practitioner Regulation National Law (Victoria) 2009 (the National Law) who can use a protected title, e.g. doctor, dentist, physiotherapist, midwife etc. Serious matters related to the conduct, competence or health of registered health practitioners will continue to be referred to Australian Health Practitioner Regulation Agency.

The Commissioner will also receive complaints about 'unregistered health service providers'. This is a very broad group and will include for example (but not be limited to) allied health assistants, counsellors and psychotherapists, art therapists, nutritionists, homeopaths, paramedics, assistants in nursing, and massage therapists.

### Who can make a complaint to the Commissioner?

Anyone can make a complaint about a health service provider, including alcohol and other drug treatment providers, to the new Commissioner. You will no longer need to be a recipient of a service to make a complaint.

## What are the new powers in relation to unregistered health service providers?

For the first time, the Commissioner will be able to prohibit unregistered health service providers from practising. The Commissioner will also be able to warn the public about unregistered health service providers who have breached a code of conduct and pose a serious risk to the public.

The Act empowers the Health Complaints Commissioner to take action against 'general health service providers' (defined as those health service providers who are those not registered practitioners under the National Law) who may be incompetent, impaired or unethical and pose significant risks to the life, health, safety or welfare of a person or the public. This may include registered practitioners who are operating outside the practice of their health service profession or, in some instances, the organisation that is providing the health service. The new system will operate alongside the Australian Health Practitioner Regulation Agency and the National Boards which still maintain primary responsibility for dealing with notifications about registered practitioners.

The Commissioner will have the power to undertake investigations and issue interim prohibition orders. Following investigation, the Commissioner may also issue public warning statements and prohibit some or all service delivery temporarily or permanently. Individuals who breach the Commissioner's ruling could face up to two years in prison.

## Why does the Act introduce new powers in relation to unregistered health service providers?

The introduction of the Act is not a judgement about the value of the services offered by unregistered providers. Many of the services provided by practitioners who do not come within one of the 14 professions covered by the national health practitioner registration scheme are a fundamental part of the overall health system.

The new powers will only come into effect in response to health service provider behaviour that poses significant risks to the health or safety of the public or a member of the public. They will have no impact on the vast majority of providers who act professionally and appropriately.

The new powers in the Act will enable the Commissioner to take decisive action to stop the small number whose conduct or performance falls well below the standard that the public has a right to expect and puts people at serious risk.

## Summary

The *Health Complaints Act 2016* will streamline and modernise Victoria's health complaints scheme to allow for more effective resolution of health complaints and improve the quality and safety of health services.

It will be fairer and more responsive for people who use health services as well as service providers.

## Further information

The *Health Complaints Act 2016* can be accessed via: <http://www.legislation.vic.gov.au/>

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Authorised and published by the Victorian Government, 1 Treasury Place, Melbourne.

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