



Changes to Health System Governance

Changes to the *Health Care Act 2008*

From 23 August 2021, further amendments to the *Health Care Act 2008* (“HCA”) come into effect to support the decentralised governance for the public health system, establishing in legislation, the new governance and accountability framework for the public health system.

Health Care Act 2008

The *Health Care Act 2008* provides for the governance, management and administration of the South Australian public health system. Amongst other things, the Act sets out the role and functions of the Minister, the Chief Executive of the Department for Health and Wellbeing (“Chief Executive”), the Local Health Networks (“LHNs”)¹, their governing boards and Chief Executive Officers (CEO), as well as SA Ambulance Service (“SAAS”) and its CEO.

To support progression of the Government’s commitment to reform governance of the health system through devolving accountability for local service delivery to LHN governing boards, the *Health Care (Governance) Amendment Act 2018* was passed by Parliament on 29 July 2018, with the amendment provisions coming into effect within the HCA on 1 July 2019. In particular, this was achieved by removing the Chief Executive’s responsibility for the direct administration of LHNs and enabling the establishment of the LHN governing boards.

The *Health Care (Governance) Amendment Act 2021* was subsequently passed by Parliament on 8 June 2021 and commenced on 23 August 2021, amending the HCA on that date. It is the final legislative step in achieving the State Government’s commitment to decentralise the public health system. It supports the decentralised system and LHN governing boards by establishing, in legislation, the new governance and accountability framework for the public health system and ensuring that each party in the public health system has clear statutory roles, responsibilities and accountabilities, avoiding duplication or omission of functions.

Changes to the *Health Care Act 2008* from 23 August 2021

From 23 August 2021, key changes to the Act that come into effect include:

- > an additional principle in the HCA that health services should be provided as part of an integrated health system that, amongst other things, is inclusive primary health networks, Aboriginal and Torres Strait Islander health services and public health services provided in local government, aged care and disability sectors;
- > revised functions of the Chief Executive so that they are reflective of the Department for Health and Wellbeing’s role as ‘system leader’ for the South Australian public health system;
- > enabling the Chief Executive of the Department to issue policies and directives that must be complied with by the Department, LHNs and SAAS.
- > formalising provision for service agreements between the Chief Executive and the LHNs and SAAS;
- > requiring the Chief Executive of the Department to issue policies on workforce harassment and bullying, amending the functions of the LHN governing boards so that the culture and wellbeing of the workers within their LHN are a focus, and placing similar obligations on SAAS;
- > clarifying that the Chief Executive (who is also the employing authority for DHW, LHN and SAAS staff) is responsible for setting terms and conditions of employment for such staff via the issue of related policies;

¹ Local Health Networks are referred to in the HCA as ‘incorporated hospitals’



- > providing that no direction may be given by an LHN governing board to the LHN CEO relating to the appointment, transfer, remuneration, discipline or termination of a particular person;
- > requiring LHN governing boards to review their Clinician Engagement Strategy and their Consumer and Community Engagement Strategy every three years;
- > amending the LHN governing board member eligibility provisions;
- > requiring the Minister to publish a notice in the SA Government Gazette within 14 days of the appointment or removal of a member of an LHN governing board;
- > making provisions for the dissolution of the metropolitan LHN governing councils, which have not operated since 1 July 2019 due to the establishment of the LHN governing boards which replace their role;
- > ensuring that Wellbeing SA and the Commission on Excellence in Innovation in Health, are brought within the operation of the privacy provisions relating to personal health information that apply to all other entities within the South Australian public health system;
- > making provision for LHN Chief Executive Officers to authorise the disclosure of personal information obtained in the course of administration of the *Mental Health Act 2009*, via consequential amendments to that Act; and
- > making minor amendments to sections of the HCA to reflect the new governance and accountability framework for the public health system or clarify their intent.

Changes to the *Health Care Act 2008* from 1 July 2019

From 1 July 2019, key changes to the Act that came into effect included:

- > an additional principle for health services to be provided as part of an integrated system which, in addition to a range of other things, 'achieves an effective balance between local decision-making in relation to incorporated hospitals and health system-planning, integration and management'
- > amendments to the Chief Executive's functions to remove responsibility for the direct administration of LHNs (incorporated hospitals); and adding a new function for the Chief Executive 'to contribute to and implement statewide service plans that apply to incorporated hospitals'
- > provisions to establish LHN Governing Boards, including setting out the functions of the boards, membership composition requirements, conflict of interest management, and ability of the board to appoint (following consultation with the Chief Executive, Department for Health and Wellbeing) the LHN Chief Executive Officer
- > requirements for each Governing Board to engage with, and develop engagement strategies for, clinicians, consumers and communities
- > provisions to allow the Minister to appoint Governing Board Chairpersons, and a range of other provisions in relation to board members, and board operations
- > where the Minister has concerns about the performance of a governing board or LHN, the amendments provide that the Minister may appoint an adviser to the board. Provisions are also included about the dismissal of a governing board where the Minister is satisfied that the board has failed to perform its functions effectively, or comply with the requirements of the Act, or a direction issued by the Minister or Chief Executive.

For more information:

www.sahealth.sa.gov.au/GovernanceReform

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