



## ANALYSIS

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1968, No. 46

**An Act to consolidate and amend the law relating to the registration and control of medical practitioners**

[11 December 1968

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Medical Practitioners Act 1968.

(2) This Act shall come into force on the first day of April, nineteen hundred and sixty-nine.

**2. Interpretation**—In this Act, unless the context otherwise requires,—

“Annual practising certificate” means a certificate under section 67 of this Act:

“Association” means the Medical Association of New Zealand:

“Commonwealth” means the Commonwealth of Nations; and includes every territory for whose international relations the Government of any country of the Commonwealth is responsible:

- “Conditional registration” means conditional registration under this Act; and “conditionally registered” has a corresponding meaning:
- “Convener of the Penal Cases Committee” or “Convener” means the person who is for the time being the Convener of the Penal Cases Committee in accordance with subsection (2) or subsection (3) of section 11 of this Act:
- “Disciplinary Committee” means the Medical Practitioners Disciplinary Committee established under this Act:
- “Division” means a Division of the Association duly formed in accordance with the bylaws of the Association:
- “Divisional Disciplinary Committee” means a Divisional Medical Practitioners Disciplinary Committee appointed under this Act:
- “Medical Council” or “Council” means the Medical Council of New Zealand established under this Act:
- “Medical Education Committee” means the Medical Education Committee established under this Act:
- “Minister” means the Minister of Health:
- “Penal Cases Committee” means the committee of that name appointed under section 11 of this Act:
- “Provisional certificate” means a provisional certificate issued under section 32 of this Act:
- “Registered medical practitioner” means a person registered as a medical practitioner under this Act; and “registered as a medical practitioner” has a corresponding meaning.
- Cf. 1950, No. 50, s. 2; 1957, No. 83, s. 2; 1962, No. 18, s. 13; 1967, No. 94, s. 2 (2)

## PART I

### MEDICAL COUNCIL OF NEW ZEALAND AND COMMITTEES

#### 3. Constitution of Medical Council of New Zealand—

- (1) There shall be a Council to be known as the Medical Council of New Zealand.
- (2) The Council shall consist of—
- (a) The Director-General of Health:
- (b) The Dean of the Faculty of Medicine in the University of Otago:
- (c) The Dean of the Faculty of Medicine in the University of Auckland:

- (d) Four registered medical practitioners to be appointed by the Governor-General, of whom two shall be appointed on the advice of the Minister given on the recommendation of the Association, and two shall be appointed on the advice of the Minister given after such consultation and inquiry (if any) as the Minister considers expedient:
- (e) Four registered medical practitioners to be appointed by the Governor-General, of whom one shall be appointed on the advice of the Minister given on the recommendation of the Dominion Committee of the Royal Australasian College of Physicians, one shall be appointed on the advice of the Minister given on the recommendation of the New Zealand Committee of the Royal Australasian College of Surgeons, one shall be appointed on the advice of the Minister given on the recommendation of the New Zealand Council of the Royal College of Obstetricians and Gynaecologists, and one shall be appointed on the advice of the Minister given on the recommendation of the New Zealand Council of the Royal College of General Practitioners.

(3) The Council shall be a body corporate with perpetual succession and a common seal, and may hold real and personal property, and sue and be sued, and do and suffer all that bodies corporate may do and suffer.

(4) The Council established under this Act is hereby declared to be the same Council as the Council known as the Medical Council existing immediately before the commencement of this Act under the Medical Practitioners Act 1950.

(5) Every reference in any enactment or document to the last mentioned Medical Council shall, unless the context otherwise requires, hereafter be read as a reference to the Medical Council of New Zealand.

(6) The persons holding office immediately before the commencement of this Act as appointed members of the Council shall cease to hold office as such on the commencement of this Act but any such person who is recommended for appointment as a member of the Council under paragraph (d) or paragraph (e) of subsection (2) of this section may be so appointed.

(7) Subject to the provisions of this Act, the members of the Council, other than those who are members by virtue of their office, shall hold office for a term of three years, save that any such member may from time to time be reappointed,

or may at any time be removed from office by the Governor-General for such cause as he thinks sufficient, or may at any time resign his office by writing addressed to the Secretary to the Council.

(8) If any appointed member of the Council dies, resigns, or is removed from office, the vacancy so created shall be filled in the manner in which the appointment to the vacant office was originally made. Every person so appointed shall be appointed for the residue of the term for which his predecessor was appointed.

(9) Unless he sooner vacates his office as provided in subsection (7) of this section, every appointed member of the Council shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

(10) The powers of the Council shall not be affected by any vacancy in the membership thereof.

Cf. 1950, No. 50, s. 3; 1962, No. 18, s. 2; 1967, No. 94, s. 2 (1)

**4. Chairman of Council**—(1) The Council, at its first meeting held after the first day of April in the year nineteen hundred and sixty-nine, and in each year thereafter, shall appoint one of its members to be the Chairman of the Council. Any such member may from time to time be reappointed as Chairman of the Council.

(2) The Chairman shall preside at all meetings of the Council at which he is present.

(3) The Chairman appointed in each year shall hold office until his successor is appointed, or for such lesser period as he remains a member of the Council.

(4) If the Chairman ceases to be a member of the Council before the expiration of the period for which he has been appointed, the Council shall appoint some other member in his stead to be Chairman until the next occasion on which a Chairman is appointed under subsection (1) of this section.

(5) If at any meeting of the Council the Chairman for the time being is not present, or there is no Chairman of the Council, the Deputy Chairman shall preside at the meeting; and if the Deputy Chairman also is not present at the meeting, or there is no Deputy Chairman, the Council shall appoint some member present to act as Chairman in respect of that meeting, and the person so appointed shall have and may exercise all the powers and functions of the Chairman for the purpose of that meeting.

(6) The Chairman of the Council shall have power to act in all matters, including the appointment of committees under section 13 of this Act, on behalf of the Council when the Council is not meeting:

Provided that, in any matter which by this Act requires a decision of the Council, he shall so act only if the authority to make a decision is not vested in a committee of the Council and he reasonably considers an urgent decision to be necessary, and he shall first consult at least one other member of the Council and he shall report to the next meeting of the Council the action he has taken.

Cf. 1950, No. 50, s. 4; 1962, No. 18, s. 3 (2)

**5. Deputy Chairman of Council—**(1) The Council, at any meeting, may appoint one of its members to be the Deputy Chairman of the Council.

(2) Unless the Deputy Chairman sooner resigns from that office, or is appointed to be the Chairman of the Council, or vacates his office as a member of the Council, he shall hold the office of Deputy Chairman of the Council for a term expiring with the thirty-first day of March in the year following that in which he was last appointed as Deputy Chairman of the Council, and shall be eligible for reappointment.

(3) If the Deputy Chairman is appointed to be the Chairman of the Council, or ceases to be a member of the Council, he shall thereupon vacate the office of Deputy Chairman.

(4) During any vacancy in the office of Chairman or in the absence of the Chairman from New Zealand or while the Chairman is incapacitated by sickness or otherwise, the Deputy Chairman shall have and may exercise and perform all the powers and duties of the Chairman.

Cf. 1950, No. 50, s. 4A; 1962, No. 18, s. 3 (1)

**6. Secretary and other officers, servants, and agents—**The Council shall from time to time appoint a Secretary to the Medical Council of New Zealand and such other officers, servants, and agents as it thinks fit, and may pay them such remuneration as it considers appropriate.

Cf. 1950, No. 50, s. 5; 1962, No. 18, s. 4

**7. Meetings of Council**—(1) Meetings of the Council shall be held at such times and places as the Chairman, or the Secretary to the Council on the direction of the Chairman, may from time to time appoint.

(2) Notice of the time and place of every such meeting, signed by the Chairman or by the Secretary to the Council, shall be sent to every member of the Council at least three clear days before the time appointed for that meeting.

(3) At any meeting of the Council held for the purpose of hearing a charge of disgraceful conduct in a professional respect five members shall form a quorum and at any other meeting of the Council six members shall form a quorum.

(4) Every question before the Council shall be determined by a majority of the votes of the members present at the meeting of the Council and voting thereon.

(5) The Chairman shall have a deliberative vote, and, in the case of an equality of votes, shall also have a casting vote.

(6) If the Dean of the Faculty of Medicine in the University of Otago or the Dean of the Faculty of Medicine in the University of Auckland intends to be absent from any meeting of the Council, he may appoint a member of the teaching staff of his Faculty to attend the meeting in his stead. While any person is attending any meeting of the Council pursuant to this subsection he shall be deemed for all purposes to be a member of the Council. The fact that any person so attends shall be sufficient evidence of his authority so to do.

(7) Except as expressly provided in this Act or in any regulations made under this Act, the Council may regulate its procedure in such manner as it thinks fit.

Cf. 1950, No. 50, ss. 6 and 7; 1962, No. 18, s. 5

**8. Medical Education Committee**—(1) There shall be a committee to be known as the Medical Education Committee, which shall be responsible to the Council and shall consist of:

(a) One person appointed by the Council, who shall be the Chairman of the Committee, which person shall be a person who is for the time being a member of the Council otherwise than under paragraph (b) or paragraph (c) of subsection (2) of section 3 of this Act:

(b) Two persons, being the persons who are for the time being members of the Council under paragraphs (b) and (c) of subsection (2) of section 3 of this Act:

- (c) Two persons appointed by the Council of the University of Otago on the recommendation of the Faculty of Medicine of that University:
- (d) Two persons appointed by the Council of the University of Auckland on the recommendation of the Faculty of Medicine of that University:
- (e) Five persons, of whom one shall be appointed by the Dominion Committee of the Royal Australasian College of Physicians, one shall be appointed by the New Zealand Committee of the Royal Australasian College of Surgeons, one shall be appointed by the New Zealand Council of the Royal College of Obstetricians and Gynaecologists, one shall be appointed by the New Zealand Council of the Royal College of General Practitioners, and one shall be appointed by the Medical Association of New Zealand.

(2) Every member of the Medical Education Committee appointed under any of the provisions of paragraphs (c), (d), and (e) of subsection (1) of this section may at any time be removed from office by the body which appointed him for such cause as that body thinks sufficient or may at any time resign his office by writing addressed to the Secretary to the Council.

(3) Subject to subsections (1) and (2) of this section, subsection (10) of section 3 and sections 4, 5, and 7 of this Act shall apply, with any modifications that may be necessary, to the members, meetings, and proceedings, and to the powers of the Chairman and Deputy Chairman, if any, of the Medical Education Committee as they apply to the members, meetings, and proceedings, and the powers of the Chairman and Deputy Chairman, of the Council.

### **9. Functions of the Medical Education Committee—**

(1) The functions of the Medical Education Committee shall be—

- (a) To tender advice to the Council of any University in New Zealand on any matter relating to medical education:
- (b) To exercise a general supervision over the training of, the work and duties allocated to, and the facilities for obtaining experience in the practice of medicine and surgery provided for, persons conditionally registered under this Act:

- (c) To take all reasonable steps to satisfy itself that the courses and curricula leading to graduation in medicine and surgery at any University in New Zealand, and the training, work, duties, and facilities referred to in paragraph (b) of this subsection, are sufficient to ensure the possession by medical practitioners of the basic knowledge and skill requisite for the efficient practice of medicine and surgery;
- (d) To advise the Council on any recommendations to be made by the Council to the Minister under subsection (1) or subsection (2) of section 16 of this Act;
- (e) To perform such other functions as may be imposed on or delegated to it by the Council or by or under any other enactment.

(2) The Medical Education Committee shall exercise the functions imposed on it by subsection (1) of this section subject to the general direction and control of the Council.

**10. Powers of the Medical Education Committee—**(1) For the purpose of exercising the functions imposed on it by paragraphs (a), (b), and (c) of subsection (1) of section 9 of this Act, the Medical Education Committee may appoint persons, whether or not they are members of the Council or of that Committee, to visit, subject to any directions which the Council may consider it expedient to give, and to compliance with any conditions specified in such directions, any University, hospital, or other institution in New Zealand where instruction is given to medical students or to persons conditionally registered under this Act.

(2) It shall be the duty of visitors appointed under this section to report to the Medical Education Committee as to the adequacy of the instruction given in the places which they visit and as to any other matters relating to such instruction which may be specified by that Committee either generally or in any particular case; but no visitor shall interfere with the giving of any instruction.

(3) On the receipt of any report of a visitor under this section the Medical Education Committee shall send a copy of the report to the body under whose direction the instruction is given, and on the receipt of any such copy that body may, within such period (not being less than one month) as that Committee may have specified at the time it sent the copy of the report, make to that Committee observations on the report or objections thereto.

(4) As soon as may be after the expiration of the period specified under subsection (3) of this section, the Medical Education Committee shall send a copy of any such report as is therein referred to and of any observations thereon or objections thereto duly made, together with that Committee's comments on the report and on any such observations or objections, to the Council.

(5) For the purposes of subsection (3) of section 14 of this Act, any visitor appointed under this section who is not a member of the Council or of the Medical Education Committee shall be deemed to be an agent of the Council.

(6) In this section, "instruction" includes the training of, the work and duties allocated to, and the facilities for obtaining experience in the practice of medicine and surgery provided for, persons conditionally registered under this Act.

**11. Penal Cases Committee**—(1) There shall be a committee to be known as the Penal Cases Committee, which shall have the functions and powers imposed or conferred on that Committee by this Act, and shall consist of two members of the Council and a solicitor of the Supreme Court.

(2) The members of the Penal Cases Committee shall be appointed by the Council, which shall nominate one of the members who is a member of the Council to be Convener of the Penal Cases Committee, and shall hold office at the pleasure of the Council.

(3) If, in relation to any particular complaint, the Chairman is satisfied that it would be impracticable, inappropriate, or unduly inconvenient for a member of the Penal Cases Committee to serve on that Committee for the purposes of investigating that complaint, he may appoint some other person who is a member of the Council, or a solicitor of the Supreme Court, as the case may require, to serve on that Committee in the place of that member for that purpose, and that person shall, while he is so serving, be deemed to be a member of the Penal Cases Committee, and, if he is appointed in the place of the Convener, to be the Convener of that Committee.

Cf. 1950, No. 50, s. 43A; 1957, No. 83, s. 6 (1)

**12. Procedure of the Penal Cases Committee**—(1) Subject to the provisions of this Act, the Council may from time to time make rules for regulating the procedure of the Penal Cases Committee, and prescribing classes of cases which need

not be referred to that Committee before they are considered by the Council.

(2) Subject to the provisions of this Act, in the absence of any such rules, or so far as the rules do not extend, the Penal Cases Committee may regulate its procedure as it thinks fit.

Cf. 1950, No. 50, s. 43D; 1957, No. 83, s. 6 (1)

**13. Other committees and subcommittees**—(1) The Council may from time to time appoint committees consisting in each case of two or more members of the Council, including, in the case of any committee to whom any power conferred on the Council by section 34 of this Act is delegated, the Chairman or Deputy Chairman of the Council, and may delegate to any such committee any of the functions or powers of the Council under this Act other than the functions and powers conferred on the Council by section 20 or section 58 of this Act.

(2) The Medical Education Committee may from time to time appoint subcommittees consisting in each case of any two or more persons, and may delegate to any such committee any of the functions or powers conferred on the Medical Education Committee by this Act.

(3) Any subcommittee established under subsection (2) of this section may include persons who are not members of the Medical Education Committee, in which event any such person shall, for the purposes of subsection (3) of section 14 of this Act, be deemed to be a member of that Committee.

(4) Every such committee or subcommittee shall be subject in all things to the control of the Council or the Medical Education Committee, and may at any time be discharged, altered, or reconstituted by that Council or that Committee, as the case may require.

(5) Subject to any general or special directions given or conditions imposed by the Council or the Medical Education Committee, as the case may be, any committee or subcommittee to which any function or power is delegated under this section may exercise the function or power in the same manner and with the same effect as if it had been conferred directly by this Act and not by delegation.

(6) Every committee or subcommittee purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation, in the absence of proof to the contrary.

(7) Any delegation under this section may be revoked at any time.

(8) No delegation under this section shall prevent the exercise of any function or power by the Council or the Medical Education Committee, as the case may require.

Cf. 1950, No. 50, s. 8; 1957, No. 83, s. 3

**14. Finance and contracts—**(1) The Secretary to the Council, or any other officer or servant of the Council authorised in that behalf by the Council, shall take and receive such fees in respect of such matters under this Act as are from time to time prescribed by regulations under this Act.

(2) Until the appropriate fee has been paid, the Secretary to the Council or any other officer of the Council may decline to do any act, or to permit any act to be done, or to receive any document, in respect of which that fee is payable.

(3) Subject to the provisions of this Act and to the terms of any trust or endowment, all fees received under this section and all other money received by the Council shall be applied by the Council in paying all amounts which by this Act are required to be paid by the Council; and, subject thereto, all such fees and money may be applied by the Council as follows:

(a) In payment of remuneration and travelling allowances and expenses to its members, officers, servants, and agents, including members of the Medical Education Committee:

(b) In payment of contributions to the National Provident Fund under the National Provident Fund Act 1950, and to any other superannuation scheme approved by the Council, for the purpose of providing superannuation and allowances for its officers and servants:

(c) In payment of all costs and expenses incurred in doing whatever the Council considers expedient in order that it may best accomplish the purposes for which it is established:

(d) In contributing towards the cost of medical education and research, and providing scholarships and fellowships and making donations for any such purpose.

(4) The Council may from time to time, as it thinks fit, invest any such fees and money not for the time being required

for any of the purposes mentioned in subsection (3) of this section in any manner authorised by the Trustee Act 1956 for the investment of trust funds.

(5) The accounts of the Council shall be audited annually by a registered accountant appointed for the purpose by the Council.

(6) Part II of the First Schedule to the Public Bodies Contracts Act 1959 is hereby amended by inserting in its appropriate alphabetical order the following item:

“The Medical Council of New Zealand | 1968, No. 46—The Medical Practitioners Act 1968.”

Cf. 1950, No. 50, s. 53; 1962, No. 18, s. 12

## PART II

### REGISTRATION

**15. Qualification for conditional registration—**(1) Except as provided in section 22 of this Act, every person shall be entitled to be conditionally registered under this Act who satisfies the Council—

- (a) That he is a graduate in medicine and surgery of a University in New Zealand; and that, if he has been admitted *ad eundem* at any stage (other than the entrance stage) of the course prescribed for admission to the degrees by virtue of which he is entitled to conditional registration, he has been so admitted with the approval of the Medical Council; or
- (b) That he is registered in the register kept in accordance with the provisions of the Acts regulating the registration of medical practitioners in the United Kingdom or the Republic of Ireland:

Provided that a person who is registered in the United Kingdom or the Republic of Ireland by virtue of a degree, diploma, or other qualification granted otherwise than by a University or institution in the United Kingdom or the Republic of Ireland shall not be entitled as of right to registration in New Zealand; but the Council shall have the same power to refuse approval of any such degree, diploma, or other qualification, or to require the person to attend a course in medicine and surgery and to pass examinations, as it has in the case of holders

of degrees, diplomas, or other qualifications applying for registration on the grounds set out in paragraph (c) of this subsection; or

- (c) That he is the holder of a degree, diploma, or other qualification approved by the Council and granted by any University or institution, other than a University in New Zealand or any University or institution in the United Kingdom or the Republic of Ireland, and is registered in the medical register kept in the country in which the degree, diploma, or other qualification is granted:

Provided that,—

- (i) Where the Council considers that there is good and sufficient reason for the person not being registered in the manner specified in this paragraph, it may dispense with the requirement that the person be so registered:
- (ii) The Council may, if it thinks fit, require that any holder of such a degree, diploma, or other qualification, before being conditionally registered, shall do all or any of the following things, namely, satisfy the Council that he has a reasonable command of the English language, and attend a course in medicine and surgery, and pass examinations therein:
- (iii) If it does not appear to the Council that the graduates in medicine and surgery of any University in New Zealand are, by virtue of their graduation and without further training, experience, or examination, entitled to be registered as medical practitioners and to practise medicine and surgery in the country in which is situated the University or institution by which the degree, diploma, or other qualification has been granted, the Council may refuse to approve that degree, diploma, or other qualification or may require every person relying thereon, before being conditionally registered, to comply with any conditions which appear to the Council to be substantially equivalent to the conditions attached to

the recognition in that country of qualifications obtained in New Zealand, notwithstanding that the Council would have approved the degree, diploma, or other qualification unconditionally if the law of that country had provided otherwise.

(2) Any course or examination which the Council, pursuant to subparagraph (ii) or subparagraph (iii) of the proviso to paragraph (c) of subsection (1) of this section, requires any person to attend or pass, shall be such course or examination as is approved for the purpose by the Council either generally or in relation to any particular case or class of cases.

Cf. 1950, No. 50, s. 9; 1951, No. 43, s. 2; 1961, No. 54, s. 59 (1); 1964, No. 30, s. 2 (1) and (2)

**16. Effect of conditional registration—**(1) Any person who is conditionally registered under this Act shall be deemed for all purposes to be registered as a medical practitioner while he is practising medicine or surgery—

- (a) In a hospital or other institution which has, on the recommendation of the Council, for the time being been approved by the Minister for the purposes of this section by notice published in the *Gazette*; or
- (b) As permitted under subsection (3) of this section—  
but not otherwise.

(2) Any approval given by the Minister for the purposes of this section may in like manner, on the recommendation of the Council, be at any time revoked.

(3) Notwithstanding the revocation of any approval pursuant to subsection (2) of this section, the Council may permit any person, who, at the date on which such revocation takes effect, is conditionally registered and is practising medicine or surgery in the hospital or other institution which is the subject of the revocation, to continue so to practise, and in that event any period during which that person practises medicine or surgery in that hospital or other institution after that date shall be deemed for the purposes of section 18 of this Act to be a period during which he so practised medicine or surgery in a hospital or institution approved by the Minister as aforesaid for the purposes of this Act.

Cf. 1950, No. 50, s. 10

**17. Cancellation of conditional registration—**(1) The Council may cancel the conditional registration of any person where it considers that he is not a fit person to be conditionally registered by reason of any fact to which section 22 of this Act applies.

(2) The Council shall cancel the conditional registration of any person upon the registration of that person as a medical practitioner as hereinafter provided.

Cf. 1950, No. 50, s. 11

**18. Qualifications for registration as medical practitioners—**

(1) Except as provided in section 22 of this Act, every person shall be entitled to be registered as a medical practitioner under this Act who satisfies the Council—

- (a) That he has been conditionally registered under this Act, and has thereafter had satisfactory experience of the practice of medicine and surgery in one or more hospitals or other institutions approved by the Minister under section 16 of this Act for the period prescribed in that behalf by regulations under this Act; or
- (b) That he has been conditionally registered, or is eligible to be conditionally registered under this Act; and has had satisfactory experience of the practice of medicine and surgery outside New Zealand for a period and in a capacity, comparable with that required under paragraph (a) of this subsection; or
- (c) That he is eligible to be conditionally registered under this Act, and has practised medicine and surgery for a continuous period of not less than five years since the date on which he obtained his degree, diploma, or other qualification; and that his professional skill and ability are of a sufficiently high standard; or
- (d) That he is eligible to be conditionally registered under this Act, and is entitled to practise medicine and surgery in the country in which his degree, diploma, or other qualification was granted, without first having experience of the practice of medicine and surgery for a period, and in a capacity, comparable with that required under paragraph (a) of this subsection.

(2) In determining whether, for the purposes of the foregoing provisions of this section, a person is eligible to be conditionally registered, the Council shall take into account

all the provisions of the proviso to paragraph (c) of subsection (1) of section 15 of this Act to the extent, if any, that those provisions would have been applicable if the Council were considering the conditional registration of that person.

Cf. 1950, No. 50, s. 12; 1964, No. 30, s. 3

**19. Applications for registration—**(1) Every person who is entitled to be conditionally registered or registered as a medical practitioner under this Act may make application to the Secretary to the Council to be registered accordingly, and shall at the same time provide such evidence of his professional ability and of his personal character as may be required by the Council.

(2) Any such application may be made through any officer, servant, or agent of the Council.

(3) On receipt by the Secretary of any such application and evidence, he shall forthwith submit the same to the Council for its consideration.

Cf. 1950, No. 50, s. 13; 1962, No. 18, s. 7

**20. Applications to be considered by Council—**(1) At its first meeting after any such application has been submitted to it or as soon thereafter as practicable, the Council shall consider that application, and shall give such directions to the Secretary to the Council in respect thereof as it thinks fit and as are hereinafter authorised.

(2) Before giving any such directions the Council may, if it thinks fit, examine on oath or otherwise the person making the application, or any person objecting thereto, or any other person, with respect to the application; and for the purposes of any such examination the Chairman for the purposes of any meeting of the Council may administer an oath to any person appearing before that meeting.

(3) The Council may also, if it thinks fit, require any person to verify by statutory declaration any statement made by him with respect to any application before the Council, or with respect to any objection to any such application.

Cf. 1950, No. 50, s. 14

**21. Directions of Council to be observed—**(1) If the Council, after considering any such application as aforesaid, is of opinion that the applicant is entitled to be registered in the manner specified in the application, it shall so direct, and the

Secretary to the Council shall thereupon register that person in that manner, and shall notify him accordingly.

(2) If the Council, after considering any such application as aforesaid, is of opinion that the applicant is not entitled to be registered in the manner specified in the application, it shall direct accordingly, and the Secretary shall thereupon refuse to register that person in that manner, and shall notify him accordingly.

Cf. 1950, No. 50, s. 15

**22. Restrictions on registration**—No person shall be entitled as of right to be conditionally registered or registered as a medical practitioner under this Act if he is not a fit person to be so registered by reason of the fact that—

- (a) He has been at any time convicted of any offence punishable by imprisonment for a term of two years or upwards; or
- (b) He is otherwise not of good fame or character.

Cf. 1950, No. 50, s. 16; 1954, No. 50, s. 40 (1)

**23. Appeal to Supreme Court from refusal to register applicant**—If any applicant who has been refused conditional registration or registration as a medical practitioner is dissatisfied with the direction of the Council, he may apply to the Supreme Court for an order to the Secretary to the Council that the applicant be so registered under this Act, and thereupon the Court may order that the person applying be so registered accordingly, or may make any such other order as it thinks fit, or may refuse to make any order in the matter, and in any such case the costs of the proceedings shall be in the discretion of the Court.

Cf. 1950, No. 50, s. 17

**24. Mode of registration**—(1) Conditional registration or registration as a medical practitioner shall be effected by the entry in the register kept for the purpose by the Secretary to the Council of the following particulars:

- (a) The nature of the registration;
- (b) The name of the person registered;
- (c) Particulars as to the qualification or qualifications by virtue whereof he is registered;
- (d) His postal address (including the name of the street and the number of the house, where possible);

- (e) The date of registration; and
- (f) Such other particulars as may be prescribed.

(2) The Secretary to the Council shall, on application in that behalf made to him at any time by a person so registered and on payment of the prescribed fee, issue to that person a certificate of registration.

Cf. 1950, No. 50, s. 18

**25. Notification of death of medical practitioner**—Every Registrar of Births and Deaths, on receiving notice of the death of any person who is registered as a medical practitioner or conditionally registered under this Act, shall forthwith transmit by post to the Secretary to the Council a notification in writing of that death, with the particulars of the date and place of death; and on the receipt of that notification the Secretary to the Council shall erase the name of the deceased person from the register.

Cf. 1950, No. 50, s. 19

**26. Changes of address**—(1) Every person who is registered as a medical practitioner or conditionally registered, and who at any time changes his address as appearing in the register, shall, within one month thereafter, send to the Secretary to the Council a notice of his new address specifying where possible the name of the street and the number of the house, and the Secretary shall thereupon correct the entry in the register relating to that person accordingly.

(2) Every such person who fails to comply with the provisions of subsection (1) of this section commits an offence and is liable on summary conviction to a fine not exceeding twenty dollars.

(3) Any information in respect of any such offence may be laid at any time within three years from the date on which the person changed his address.

Cf. 1950, No. 50, s. 20

**27. Name may be removed from register if registered person cannot be found, etc.**—(1) The Secretary to the Council may at any time, and shall if the Council so directs, send to any person who is registered as a medical practitioner or conditionally registered, by registered letter addressed to him at his address as appearing in the register, an inquiry as to whether or not he desires to have his name retained in the register or has ceased to practise.

(2) If no reply is received to that letter within six months from the posting thereof, or if the letter is not delivered and is returned to the Secretary to the Council, the Secretary shall, if the Council so directs, remove from the register the name of the person to whom the letter was so sent.

(3) If the Council has reason to believe that any such person has died outside New Zealand, it may direct the Secretary to the Council to erase the name of that person from the register, and the Secretary shall erase that name accordingly.

(4) Any person whose name has been removed from the register in pursuance of this section may apply to the Secretary to the Council to have his name restored to the register; and, on proof to the satisfaction of the Council that his name has been so removed, it shall direct the Secretary to restore to the register the name of that person:

Provided that, if any person is aggrieved by any decision of the Council under this subsection which affects the restoration of his name to the register upon an application in that behalf, he shall have the same right of appeal as if his application had been an application for registration under section 19 of this Act.

Cf. 1950, No. 50, s. 21; 1964, No. 30, s. 4

**28. Additional degrees and diplomas may be entered in register**—Every person who is registered as a medical practitioner or conditionally registered, and who obtains any medical or surgical degree or diploma other than that by virtue whereof he is registered, may apply to the Council to amend the register so far as it relates to the qualifications of that person; and on any such application the Council shall, if satisfied that the applicant is entitled to the degree or diploma in respect of which the application is made and that the degree or diploma in respect of which the application is made is of sufficient standing to warrant it being included in the register, direct the Secretary to the Council to amend the register accordingly, and the Secretary shall thereupon insert in the register particulars as to that degree or diploma.

Cf. 1950, No. 50, s. 22

**29. Amendment of register if person wrongfully registered or where particulars incorrect**—(1) If any person has been registered as a medical practitioner or conditionally registered by reason of any false or fraudulent representation or declara-

tion, made either orally or in writing, or if any person not entitled to be registered as aforesaid has been so registered, the Council shall cause the name of that person to be erased from the register, and the fact of that erasure shall be notified by the Secretary to the Council in the *Gazette*.

(2) If any particulars appearing in the register in respect of the qualifications or address of any such person are proved to the satisfaction of the Council to be or are to the knowledge of the Council false or erroneous in any respect, the Council shall direct the Secretary to the Council to erase those particulars from the register, or otherwise amend the register, and the Secretary shall thereupon amend the register accordingly.

(3) The provisions of subsection (2) of this section shall apply notwithstanding that at the time when the entry in the register was made the person was actually possessed of the qualifications particulars whereof appear in the register, or that at that time the entry was otherwise correct.

(4) Any person whose name has been erased from the register in pursuance of subsection (1) of this section, or any person the particulars of whose qualifications have been altered in pursuance of subsection (2) thereof, may by motion apply to the Supreme Court for an order to the Secretary to the Council for the restoration of his name to the register, or for the restoration to the register of any particulars as to his qualifications; and thereupon the Court may make such order in the matter as it thinks fit or may refuse to make any order, and in any such case the costs of the proceedings shall be in the discretion of the Court.

Cf. 1950, No. 50, s. 23

**30. Removal of name from New Zealand register after removal from United Kingdom or other register—**(1) If the Council is satisfied that the name of any person who has been registered as a medical practitioner or conditionally registered in New Zealand because he possessed the qualification mentioned in paragraph (b) of subsection (1) of section 15 of this Act has since been removed from any register of medical practitioners in the United Kingdom or elsewhere in the Commonwealth, or in the Republic of Ireland, or that the name of any person who has been conditionally registered or registered as a medical practitioner in New Zealand because he possessed the qualification mentioned in paragraph (c) of subsection (1) of section 15 of this Act has since been removed from any register of medical practitioners in the country in

which his foreign degree, diploma, or qualification was granted, it may, by writing under the hand of the Chairman, direct the removal of his name from the register, and the name shall be removed accordingly.

(2) Notice of its intention to direct the removal of any name from the register pursuant to this section shall be given by the Council to the person affected, either personally or, if his address is unknown, by advertisement in such manner as the Council thinks sufficient, and his name shall not be removed from the register before the expiration of one month from the date of the notice.

(3) Any person whose name has been removed from the register by direction of the Council acting or purporting to act under the authority of this section may appeal to the Supreme Court, which may make such order in the matter as it thinks just, having regard to the merits of the case and to the public welfare.

Cf. 1950, No. 50, s. 24

**31. Amendment of register on change of name and removal of name on request—**(1) When it appears to the satisfaction of the Council that a person who has been registered as a medical practitioner or conditionally registered has changed his name, or that the name of any such person is incorrectly stated in the register, the Secretary shall, on payment of the prescribed fee, correct the entry in the register relating to that person accordingly:

Provided that no fee shall be payable where the correction of the register is rendered necessary by reason of a mistake made by the Council or the Secretary or any of his subordinates.

(2) The Council may at any time, if it thinks fit, on the application of any person who has been registered as a medical practitioner or conditionally registered, cause the name of that person to be removed from the register.

(3) Subsection (4) of section 27 of this Act shall apply in the case of any person whose name has been removed from the register under this section.

Cf. 1950, No. 50, s. 24A; 1964, No. 30, s. 5

**32. Provisional certificates—**(1) Notwithstanding anything to the contrary in this Act, the Secretary to the Council shall, if so directed by the Chairman of the Council, issue to a person who has applied for conditional registration or registration

as a medical practitioner under this Act a provisional certificate which shall entitle that person, pending the consideration of his application by the Council, to practise as a medical practitioner to the extent to which he would be entitled if he had been registered in the manner specified in his application.

(2) Every such certificate shall be endorsed in accordance with a direction issued by the Chairman of the Council to show whether it relates to conditional registration or to registration as a medical practitioner.

(3) Every such certificate shall, unless it has been cancelled or has lapsed, remain in force for the period stated therein, not exceeding three months, but any such certificate may be from time to time renewed.

(4) The holder of any such certificate shall, while the certificate remains in force, be deemed for all purposes to be conditionally registered or registered as a medical practitioner, as the case may be.

(5) The Secretary to the Council may cancel any provisional certificate at any time on the direction of the Council.

(6) Any direction given by the Chairman of the Council under this section may be expressed to apply generally or in relation to any particular case or class of cases, but the Secretary shall not issue any such certificate to any person who does not appear to him to be entitled to be registered in the manner specified in the application unless he is specially directed by the Chairman of the Council to do so.

Cf. 1950, No. 50, s. 25; 1964, No. 30, s. 6

**33. Temporary registration of practitioners visiting New Zealand—**(1) Notwithstanding anything in this Act, if the Council is satisfied that any person is or will be visiting New Zealand for the purpose of giving post-graduate instruction in medicine or surgery, and—

(a) That he is qualified for registration as a medical practitioner under this Act; or

(b) That he is the holder of a degree, diploma, or other qualification granted by any University or institution outside New Zealand and recognised by the Council for the purposes of this section as evidence that the holder has sufficient knowledge and experience for the efficient practice of medicine and surgery,—

the Council may, if it thinks fit, issue to him a certificate of temporary registration entitling him to practise as a medical practitioner for such period as may be determined by the Council and specified in the certificate.

(2) Notwithstanding anything in this Act, if the Council is satisfied that any person is or will be visiting New Zealand for the purpose of obtaining post-graduate experience as a practitioner of medicine or surgery, or of carrying out research in medicine or surgery, in the Department of Health or in any hospital or other institution approved by the Council for the purposes of this section, and—

(a) That he is qualified for registration as a medical practitioner under this Act; or

(b) That he is the holder of a degree, diploma, or other qualification granted by any University or institution outside New Zealand and recognised by the Council for the purposes of this section as evidence that the holder has sufficient knowledge and experience for the efficient practice of medicine and surgery,—

the Council may, if it thinks fit, on payment, if required by the Council, of any fee that may be prescribed for the purposes of this subsection, issue to him a certificate of temporary registration entitling him to practise as a medical practitioner, for such period as may be determined by the Council and specified in the certificate, in the Department, hospital, or institution specified in the certificate.

(3) The provisions of sections 19 to 22 of this Act shall apply to every application for temporary registration under this section.

(4) Except as provided in subsection (2) of this section, no fee shall be payable in respect of any application for temporary registration under this section or in respect of the issue of any certificate thereunder.

(5) The Council may from time to time, in its discretion, extend the period specified in any certificate under this section if it is satisfied that the circumstances in which it was issued still exist. Where any such extension is granted the certificate shall be surrendered by the holder to the Secretary to the Council who may endorse the extension on the certificate or issue a new certificate.

(6) During the period specified in any certificate issued under subsection (1) of this section, or any extension thereof, the holder of the certificate shall, unless it has been cancelled under this section, be deemed for all purposes to be registered as a medical practitioner.

(7) During the period specified in any certificate issued under subsection (2) of this section, or any extension thereof, the holder of the certificate shall, unless it has been cancelled under this section, be deemed for all purposes to be registered

as a medical practitioner while he is practising medicine or surgery in the Department, hospital, or institution specified in the certificate but not otherwise.

(8) The Secretary to the Council may cancel any such certificate at any time on the direction of the Council.

Cf. 1950, No. 50, s. 25A; 1954, No. 10, s. 2 (1); 1967, No. 94, s. 3

### **34. Notification of disability and suspension from practice—**

(1) In this section—

“Hospital” means—

(a) Any institution or separate institution within the meaning of the Hospitals Act 1957:

(b) Any licensed hospital within the meaning of Part V of the Hospitals Act 1957:

(c) Any institution within the meaning of the Mental Health Act 1911:

“Medical Superintendent”, in relation to any hospital, means—

(a) In the case of any institution or separate institution within the meaning of the Hospitals Act 1957, the medical officer (if any) who is in charge of that hospital:

(b) In the case of any licensed hospital within the meaning of Part V of the Hospitals Act 1957, the manager of that hospital if he is a registered medical practitioner:

(c) In the case of any institution within the meaning of the Mental Health Act 1911, the Medical Superintendent of that institution.

(2) In any case where any person who is registered as a medical practitioner or conditionally registered is a patient of a hospital of which there is a Medical Superintendent, if the Medical Superintendent considers that the person is (owing to mental or physical disability) unable to perform his professional duties satisfactorily, and that because he may attempt to perform those duties, it is necessary in the public interest to prevent him from so doing, the Medical Superintendent shall forthwith give written notice to the Secretary to the Council of all the circumstances.

(3) In any case where any person who is registered as a medical practitioner or conditionally registered is not a patient of a hospital of which there is a Medical Superintendent, if any registered medical practitioner is in attendance on that person and considers that the person is (owing to mental or

physical disability) unable to perform his professional duties satisfactorily and that, because he may attempt to perform those duties, it is necessary in the public interest to prevent him from so doing, the medical practitioner in attendance on that person shall forthwith give written notice to the Secretary to the Council of all the circumstances.

(4) In any case where any Medical Superintendent or registered medical practitioner contemplates giving any such written notice to the Secretary to the Council, he may seek whatever medical advice, whether psychiatric or otherwise, he considers appropriate to assist him in forming his opinion. Any written notice thereafter so given shall mention any difference between any such advice and the views of the Medical Superintendent or registered medical practitioner as set out in the notice.

(5) Upon receipt of any such notice, the Secretary to the Council shall forthwith take all steps necessary to have it considered by the Council or by any committee of the Council to which the powers conferred on the Council by this section have been delegated under section 13 of this Act.

(6) Whether or not the Secretary to the Council has received any such written notice as aforesaid in connection with the matter, if the Council or any such committee is satisfied that any person who is registered as a medical practitioner or conditionally registered is (owing to mental or physical disability) unable to perform his professional duties satisfactorily, and that, because he may attempt to perform those duties, it is necessary in the public interest to prevent him from so doing, the Council or committee may, by writing under the hand of the Chairman or Deputy Chairman, suspend that person from practice as a registered medical practitioner or as a person conditionally registered under this Act, as the case may be.

(7) Any such suspension shall take effect forthwith upon its being made, but may at any time be revoked—

(a) By the Council or any such committee; or

(b) By the Supreme Court either—

(i) On an appeal by the person so suspended to that Court made within twenty-eight days after the date on which the Council or committee has suspended that person or has last refused to revoke the suspension on an application made to it in that behalf by that person; or

(ii) On an application by the person so suspended to that Court in any case where the person has

applied in writing to the Secretary to the Council for the revocation of the suspension under paragraph (a) of this subsection and has not been advised of the decision of the Council or any such committee in connection with his application within twenty-eight days after the date on which the application was delivered to the Secretary.

(8) While any person is so suspended from practice under this section, that person shall be deemed for the purposes of this Act other than Part III not to be a registered medical practitioner or conditionally registered, as the case may be.

(9) Notwithstanding anything in the preceding provisions of this section, if the Council or any such committee is of the opinion that a person who is registered as a medical practitioner is (owing to mental or physical disability) unable to perform his professional duties satisfactorily except under supervision, the Council or committee, as the case may require, may, instead of suspending that person under subsection (6) of this section, or revoking a suspension under subsection (7) of this section, by writing under the hand of the Chairman or Deputy Chairman suspend or continue the suspension of that person from practice, except practice in such hospital or other institution or in partnership with such other medical practitioner or medical practitioners as may from time to time be specified by the Council or any such committee.

(10) Subsection (7) of this section shall apply to any suspension limited in terms of subsection (9) of this section as it applies to any other suspension under this section, and subsection (8) of this section shall apply in respect of any suspension so limited except in relation to practice in the hospital or other institution or in the course of a partnership for the time being specified in accordance with and for the purposes of the said subsection (9).

Cf. 1950, No. 50, s. 26; 1962, No. 18, s. 14

**35. Offences as to registration**—Every person who wilfully procures or attempts to procure himself to be registered under this Act by making or producing, or causing to be made or produced, any false or fraudulent representation or declaration, either orally or in writing, and any person who assists or attempts to assist him therein, commits an offence, and is liable on conviction on indictment to imprisonment for a term not exceeding three years.

Cf. 1950, No. 50, s. 27

**36. Register to be open to inspection**—The register kept by the Secretary to the Council under this Act shall at all reasonable times be open to inspection by the public at the office of the Council.

Cf. 1950, No. 50, s. 28; 1962, No. 18, s. 8

**37. Copy of register to be gazetted annually**—(1) The Secretary to the Council shall, as at the thirtieth day of June in each year, prepare a copy of the register of persons who are registered as medical practitioners or conditionally registered under this Act, and shall certify it to be a true copy, and shall cause it to be published in the *Gazette* as soon as practicable after the thirtieth day of June in the year to which the copy relates.

(2) The copy of the register shall indicate with reference to every person whose name appears therein whether the person is the holder of an annual practising certificate for the then current year, and whether he is registered as a medical practitioner or conditionally registered.

(3) Any copy of the register published as aforesaid shall, until the contrary is shown, be sufficient evidence in all judicial proceedings of the contents of the register as at the date of the certificate referred to in subsection (1) of this section, and of everything stated or indicated in the copy.

(4) The absence of a person's name from any such copy of the register shall, until the contrary is shown, be sufficient evidence that that person was not registered in the register at the date of the said certificate:

Provided that, in the case of any person whose name does not appear in that copy, a certified copy under the hand of the Secretary to the Council of the entry of the name of that person in the register shall be evidence of the contents of the register with respect to that entry.

(5) Without restricting in any way the foregoing provisions of this section, a certificate of registration issued under section 24 of this Act shall be evidence of the registration of the holder of that certificate as at the date thereof; and a certificate under the hand of the Secretary to the Council that any person is or is not conditionally registered or registered as a medical practitioner shall be evidence of that fact.

(6) The copy of the register shall be sufficiently proved by the production of a copy of the *Gazette* containing the same.

Cf. 1950, No. 50, s. 29

**38. Publication of copies of register**—Without restricting in any way the provisions of section 37 of this Act, it is hereby declared that the Council may at any time cause copies of the register of persons who are registered as medical practitioners or conditionally registered under this Act to be published otherwise than as required by that section, and may sell or authorise the sale of copies of the register published under this section at such reasonable price as the Council may fix.

Cf. 1950, No. 50, s. 29A; 1962, No. 18, s. 9

**39. Registration of specialists**—(1) Upon being required so to do by regulations made under subsection (2) of this section, the Council shall establish and maintain a register of medical practitioners possessing specialist status.

(2) The Governor-General may from time to time, by Order in Council made on the advice of the Minister given after consultation by the Minister with the Council, make regulations for all or any of the following purposes:

- (a) Prescribing and defining specialties in medicine and surgery for the purposes of establishing and maintaining a register of medical practitioners possessing specialist status:
- (b) Providing for the registration of specialists in any branch of medicine or surgery:
- (c) Prescribing the qualifications, experience, and any other conditions that must be held or satisfied by a medical practitioner for the purpose of obtaining or retaining such registration:
- (d) Regulating the recording in, removal from, and restoration to the register of specialists of the names, particulars, and qualifications of persons so registered:
- (e) Providing for appeals by medical practitioners against any refusal of the Council to register them in the register of specialists or to restore their names to that register or against any decision of the Council to remove their names from that register:
- (f) Prescribing the fees payable in respect of any application for registration as a specialist and in respect of any such registration and in respect of the restoration of names to the register of specialists, and, if no provision is otherwise made therefor, in respect of appeals:

- (g) Applying any provision of this Act, or of any other regulation made under this Act, with such modifications as may be necessary, in relation to any of the matters specified in this subsection.

### PART III

#### DISCIPLINE WITHIN THE MEDICAL PROFESSION

**40. Constitution of Medical Practitioners Disciplinary Committee—**(1) There shall continue to be a Committee (to be known as the Medical Practitioners Disciplinary Committee) appointed in accordance with this section to exercise the powers and functions hereinafter conferred on it.

(2) The Disciplinary Committee shall consist of five registered medical practitioners, of whom—

(a) Four shall be appointed by the Council of the Association:

(b) One shall be appointed by the Minister.

(3) The Disciplinary Committee may from time to time elect one of its members to be the Chairman of the Committee, and may from time to time fix the term of office of the Chairman. If at the time of any meeting of the Committee no such Chairman is in office or the Chairman is not present, the Committee may elect one of its members to be the Chairman of that meeting.

(4) The Council of the Association may from time to time remove from office any member of the Disciplinary Committee appointed by the Council, and may fill any vacancy caused by the resignation, removal, or death of any such member. The Minister may from time to time remove from office any member of the Disciplinary Committee appointed by the Minister and may fill any vacancy caused by the resignation, removal, or death of any such member.

(5) Three members of the Disciplinary Committee shall form a quorum.

(6) The General Secretary of the Association shall be the Secretary of the Disciplinary Committee.

Cf. 1950, No. 50, s. 30; 1957, No. 83, s. 13 (2)

**41. Divisional Disciplinary Committees—**(1) In respect of any Division of the Association, or in respect of any group of Divisions, the Council of the Association, after consultation with the Division or Divisions concerned, may from time to time appoint a Divisional Medical Practitioners Disciplinary

Committee to exercise the powers and functions hereinafter conferred on it and also to inquire into such accounts for medical services as may be referred to it under section 98 of the Social Security Act 1964.

(2) In the case of the Auckland, Wellington, Canterbury, and Otago Divisions, or of any group that includes any of those Divisions, the Divisional Disciplinary Committee shall consist of six registered medical practitioners, of whom three shall form a quorum. In every other case the Divisional Disciplinary Committee shall consist of three registered medical practitioners, of whom two shall form a quorum.

(3) A Divisional Disciplinary Committee may from time to time elect one of its members to be the Chairman of the Committee, and may from time to time fix the term of office of the Chairman. If at the time of any meeting of a Divisional Disciplinary Committee no such Chairman is in office or the Chairman is not present, the Committee may elect one of its members to be the Chairman at that meeting.

(4) The Council of the Association, after consultation with the Division concerned, may from time to time remove from office any member of a Divisional Disciplinary Committee, and may fill any vacancy caused by the resignation, removal, or death of any member.

(5) Each Divisional Disciplinary Committee shall appoint one of its members to act as the honorary secretary of the Committee.

Cf. 1950, No. 50, s. 31

#### **42. Chairmen of Committees to have casting votes—**

(1) The Chairman of the Disciplinary Committee, and of every Divisional Disciplinary Committee, shall have a deliberative vote, and, in the case of an equality of votes, shall also have a casting vote.

(2) Every question before the Disciplinary Committee or any Divisional Disciplinary Committee shall be determined by a majority of the votes of the members present at the meeting of the Committee and voting thereon.

Cf. 1950, No. 50, s. 31A; 1957, No. 83, s. 4

**43. Functions of Disciplinary Committee as to charges of professional misconduct—**(1) The Disciplinary Committee shall have power, where a charge of professional misconduct has been made by any person against a person who is a registered medical practitioner or who is conditionally registered, to inquire into that charge:

Provided that, where the Disciplinary Committee is of the opinion, whether before or after it has completed its inquiry into any such charge, that the charge amounts to a charge of disgraceful conduct in a professional respect, the Disciplinary Committee shall cease to inquire into or deal with the charge and shall refer it to the Secretary to the Council as a complaint under section 55 of this Act.

(2) If after inquiring into any charge the Disciplinary Committee is of opinion that the person against whom the charge is made has been guilty of professional misconduct, it may, if it thinks fit, but subject to the following provisions of this Act as to appeals, do one or more of the following things, namely:

- (a) Order him to pay a penalty not exceeding two hundred dollars to the Association:
- (b) Censure him:
- (c) Order him to pay any costs or expenses of and incidental to the inquiry.

Cf. 1950, No. 50, s. 32; 1957, No. 83, s. 5; 1962, No. 18, s. 15 (1)

**44. Enforcement of contracts of service entered into by medical bursars—**(1) This section applies to any contract entered into by any person with the Crown (whether before or after the commencement of this Act) whereby that person has undertaken to serve for such period or periods as may be specified in the contract in either or both of the following types of employment, namely, employment as a medical practitioner in the service of a Hospital Board, or such employment (whether in the service of a Hospital Board or otherwise) as the Director-General of Health may require.

(2) In any case in which, pursuant to section 132A of the Health Act 1956, as inserted by section 13 of the Health Amendment Act 1964, a person signs a bond whereby that person is required, as a condition for the discharge of the bond, to serve as provided in subsection (1) of this section, the offer and acceptance of the bursary in connection with which the bond is signed shall be deemed to be a contract to which this section applies whereby that person has undertaken so to serve.

(3) Where any medical practitioner has committed a wilful breach of any such undertaking in a contract to which this section applies, the Disciplinary Committee shall have and may exercise the powers conferred on it by section 43 of this

Act; and the provisions of this Act shall, so far as they are applicable and with any necessary modifications, apply accordingly as if such a breach were professional misconduct.

(4) Where a medical practitioner has committed any such wilful breach, it is hereby declared, without limiting any other powers of the Minister or of the Disciplinary Committee, that the Minister may, on the recommendation of the Disciplinary Committee, by notice published in the *Gazette* and in such other manner (if any) as the Minister thinks proper, exclude the medical practitioner from participation in any scheme under Part II of the Social Security Act 1964 whereby payments are made by the Department of Health, whether to the medical practitioner or to any other person, in respect of the provision of general medical services by medical practitioners.

(5) Any notice under subsection (4) of this section may at any time be revoked by the Minister, and, if not sooner revoked, shall cease to operate on the expiration of six months, or such longer period as the medical practitioner has failed to serve in accordance with his contract, from the date of the first publication of the notice in the *Gazette*.

Cf. 1950, No. 50, s. 33; 1962, No. 18, s. 16

**45. Functions as to complaints under Social Security Act 1964**—(1) The Disciplinary Committee shall inquire into such complaints against persons who are registered medical practitioners or who are conditionally registered, in connection with matters arising under Part II of the Social Security Act 1964, as may be referred to it by the Minister, and it may, if it thinks fit, but subject to the following provisions of this Act as to appeals, make recommendations to the Minister regarding any such complaint, and order the person concerned to pay any costs or expenses of and incidental to the inquiry.

(2) If any such complaint involves professional misconduct on the part of any such person, that complaint may also be the basis of a charge of professional misconduct against him, and the charge may be inquired into and dealt with by the Disciplinary Committee in accordance with the provisions of this Act.

Cf. 1950, No. 50, s. 34

**46. Right of medical practitioner to be heard**—The Disciplinary Committee shall not, with respect to any person who is a registered medical practitioner or who is conditionally

registered, exercise any of the disciplinary functions conferred on it by this Act, or make any recommendation to the Minister under section 45 of this Act, without giving the person a reasonable opportunity of being heard in his own defence.

Cf. 1950, No. 50, s. 35

**47. Preliminary inquiries may be made by Divisional Disciplinary Committee—**(1) If the Disciplinary Committee in any case thinks fit, it may authorise the appropriate Divisional Disciplinary Committee to conduct wholly or in part the hearing of any inquiry under this Act.

(2) On the completion of the hearing before it, the Divisional Disciplinary Committee shall furnish to the Disciplinary Committee a full report of the hearing, and its recommendations thereon, and thereupon the Disciplinary Committee, whether or not the matter is further heard before it or before any other Divisional Disciplinary Committee, may make any order or may make any recommendation to the Minister in the matter of the inquiry that it could have made if the inquiry had been wholly heard by it.

Cf. 1950, No. 50, s. 36

**48. Disciplinary Committee may make order as to costs—**After the hearing of any inquiry under this Act the Disciplinary Committee or Divisional Disciplinary Committee may make such order as to the payment of costs as it thinks fit, and in particular may order that costs be awarded to any person who is a registered medical practitioner or who is conditionally registered and in relation to whom an inquiry has been made, and that those costs be paid by the Association.

Cf. 1950, No. 50, s. 37

**49. Penalties, costs, and expenses recoverable by the Association—**(1) Any penalty or costs or expenses ordered by the Disciplinary Committee and any costs ordered by a Divisional Disciplinary Committee to be paid by a person who is a registered medical practitioner or who is conditionally registered shall be deemed to be a debt due from that person to the Association and shall be recoverable accordingly in any Court of competent jurisdiction.

(2) All penalties, costs, and expenses recovered by the Association shall be applied towards the costs and expenses of and incidental to the performance by the Disciplinary

Committee and the Divisional Disciplinary Committees of their functions under this Act.

Cf. 1950, No. 50, s. 38

**50. Costs of administration**—The costs and expenses of and incidental to the performance by the Disciplinary Committee and the Divisional Disciplinary Committees of their functions under this Act shall be paid partly by the Association and partly out of money to be appropriated by Parliament for the purpose, in proportions to be agreed upon between the Council of the Association and the Minister with the approval of the Minister of Finance.

Cf. 1950, No. 50, s. 39

**51. Rules of procedure**—(1) The Governor-General may from time to time, by Order in Council, make rules for regulating the procedure of the Disciplinary Committee and Divisional Disciplinary Committees.

(2) Subject to any such rules and to this Act, the Disciplinary Committee and each Divisional Disciplinary Committee may regulate its own procedure as it thinks fit.

Cf. 1950, No. 50, s. 40

**52. Orders, recommendations, and reports**—(1) Every order made by the Disciplinary Committee shall contain a statement of the findings of the Disciplinary Committee in relation to the case, and shall be signed by the Chairman. A copy of every such order shall be forwarded to the Council of the Association.

(2) Every recommendation of the Disciplinary Committee to the Minister shall contain a statement of the findings of the Disciplinary Committee in relation to the case, and shall be signed by the Chairman.

(3) Every report of a Divisional Disciplinary Committee on an account referred to it under section 98 of the Social Security Act 1964 shall be signed by the Chairman, and shall be forwarded to the person chargeable or to the Court referring the account to the Committee, as the case may be. A copy of every such report shall be forwarded to the medical practitioner delivering the account, and to the Council of the Association.

(4) A copy of every such order, recommendation, or report shall be forwarded to the Medical Council on its request.

Cf. 1950, No. 50, s. 41

**53. Appeals from decisions of Disciplinary Committee—**  
(1) An appeal against any order of the Disciplinary Committee, or against any recommendation made by it to the Minister, shall lie to the Medical Council at the instance of the registered medical practitioner or the person conditionally registered to whom the order relates, or who is affected by the recommendation, or, in a case where the proceedings before the Disciplinary Committee have been taken on the complaint of any person other than the practitioner concerned, then at the instance of the complainant.

(2) Every such appeal shall be brought by notice of appeal delivered to the Secretary to the Medical Council within twenty-eight days after the day on which the order or recommendation was notified to the medical practitioner concerned. A copy of the notice of appeal shall be forwarded within the same period to each party directly affected by the appeal and to the Secretary of the Disciplinary Committee.

(3) Every such appeal shall be by way of rehearing and on any such appeal the Council may make such order or recommendation, as the case may be, as it thinks proper, having regard to the merits of the case and the public welfare.

(4) Unless the Council otherwise directs, on any such rehearing the record of the evidence adduced at the hearing before the Disciplinary Committee shall be placed before the Council, and it shall not be permissible to recall witnesses who gave evidence before the Disciplinary Committee or to call other witnesses.

(5) On any appeal under this section the Council may make an order for the payment to the Council by the registered medical practitioner or the person conditionally registered to whom the appeal relates, or who is affected by the recommendation, or, in a case where the proceedings before the Disciplinary Committee were taken on the complaint of the Minister or of a public servant acting in the course of his official duty or some other person, by the Minister or that public servant or other person, as the case may require, of the costs and expenses of the appeal proceedings; and any such costs and expenses so ordered to be paid shall be deemed to be a debt due to the Council from the Crown, if the order is made against the Minister or any such public servant, or from the practitioner or other person, as the case may require, and shall be recoverable accordingly in any Court of competent jurisdiction.

Cf. 1950, No. 50, s. 42; 1962, No. 18, s. 17

**54. Jurisdiction of Court and of Medical Council not affected**—Except as expressly provided in this Act, nothing in this Act relating to the Disciplinary Committee or to Divisional Disciplinary Committees shall be construed to limit the jurisdiction of the Supreme Court or of the Medical Council.

Cf. 1950, No. 50, s. 43

**55. Complaints of disgraceful conduct**—(1) Except as otherwise provided by rules made under section 12 of this Act, every person who seeks to make a formal complaint that any person who is registered as a medical practitioner, or who is conditionally registered, has been guilty of disgraceful conduct in a professional respect shall make the complaint to the Secretary to the Council.

(2) Every such complaint (other than a complaint made by a Court) shall be in writing and shall be supported by such statutory declarations, if any, as the Secretary to the Council may require.

(3) Where the Secretary to the Council has received any complaint under this section and such statutory declarations as he may require under subsection (2) of this section, he shall notify the Convener of the Penal Cases Committee of the complaint.

Cf. 1950, No. 50, s. 43B; 1957, No. 83, s. 6 (1); 1962, No. 18, s. 18 (1)

**56. Penal Cases Committee to investigate complaint**—

(1) Upon being notified of the complaint in accordance with section 55 of this Act, the Convener of the Penal Cases Committee shall cause that Committee to investigate the complaint and determine whether any further action shall be taken in respect thereof.

(2) Before the Penal Cases Committee decides whether or not further action shall be taken in respect of the complaint,—

(a) The Convener shall post or deliver to the person concerned a notice specifying the substance of the complaint with sufficient particularity to enable that person to answer it and inviting him within such period (not being less than fourteen days) as may be specified in the notice, to give to the Convener any written explanation he may wish to offer and to advise the Convener if he wishes to be heard by the Committee:

(b) The Penal Cases Committee shall allow the time specified in the notice to elapse, and shall give the person concerned reasonable opportunity to be heard, and shall give due consideration to any explanation he may make.

(3) Where at the conclusion of any investigation as aforesaid the majority of the Penal Cases Committee are of the opinion that the person concerned has been guilty of disgraceful conduct in a professional respect in relation to the subject-matter of the complaint, that Committee shall frame an appropriate charge and refer it to the Chairman of the Council who shall thereupon convene a meeting of the Council for the purpose of hearing the charge.

(4) Where at the conclusion of any investigation as aforesaid the majority of the Penal Cases Committee are of the opinion that the person concerned has not been guilty of disgraceful conduct in a professional respect but has been guilty of professional misconduct in relation to the subject-matter of the complaint, that Committee shall frame an appropriate charge and refer it to the Disciplinary Committee to be dealt with under section 43 of this Act.

(5) Every charge that is referred to the Chairman of the Council pursuant to subsection (3) of this section or to the Disciplinary Committee pursuant to subsection (4) of this section shall be prosecuted at the hearing by the Penal Cases Committee, and that Committee may for this purpose be represented by counsel or otherwise.

(6) In any case where the Disciplinary Committee has, pursuant to the proviso to subsection (1) of section 43 of this Act, referred a charge in respect of which it has completed its inquiry to the Secretary to the Council, the Penal Cases Committee may forthwith proceed under subsection (3) of this section without complying with the provisions of subsections (1) and (2) of this section, and, if it refuses so to do, the Disciplinary Committee may refer the charge to the Chairman of the Council, whereupon the provisions of subsections (3) and (5) of this section shall apply as if the Disciplinary Committee were the Penal Cases Committee.

(7) No member of the Penal Cases Committee shall act as a member of the Council at the hearing of, or deliberation and adjudication on, any charge arising out of a complaint which has been referred to that Committee under this section.

Cf. 1950, No. 50, ss. 43B and 43C; 1957, No. 83, s. 6 (1)

**57. Remuneration of persons participating in investigation—**(1) For the purposes of subsection (3) of section 14 of this Act, a solicitor who is a member of the Penal Cases Committee shall be deemed to be an agent of the Council in respect of any investigation conducted by that Committee.

(2) There shall be paid by the Council to every person who gives evidence to the Penal Cases Committee such sum as he may be allowed under subsection (1) of section 63 of this Act.

**58. Disciplinary powers of Council—**(1) If any person who is registered as a medical practitioner, or who is conditionally registered,—

(a) Is convicted by any Court in New Zealand of any offence for which the maximum punishment is not less than two years' imprisonment; or

(b) After due inquiry is judged by the Council to have been guilty of disgraceful conduct in a professional respect,—

the Council, may, if it thinks fit, exercise in respect of that person all or any of the disciplinary powers conferred on it by subsection (2) of this section.

(2) The disciplinary powers which the Council may so exercise in respect of any such person, if it thinks fit, shall be as follows:

(a) Subject to subsection (3) of this section, the Council may, by writing under the hand of the Chairman, order the name of that person to be removed from the register; and thereupon, subject to the provisions of this Act, that person shall cease to be a registered medical practitioner or conditionally registered, as the case may require:

(b) Subject to subsection (3) of this section, the Council may, by writing under the hand of the Chairman, suspend the person from practice as a medical practitioner for a period not exceeding twelve months:

(c) The Council may, by writing under the hand of the Chairman, impose a penalty upon the person not exceeding five hundred dollars:

Provided that no such penalty may be imposed under this paragraph in any case where the Council is proceeding under paragraph (a) of subsection (1) of this section, or where the Council is inquiring into any act or omission which constitutes an offence for which the person has been convicted by any Court and which is punishable by imprisonment or fine:

- (d) The Council may, by writing under the hand of the Chairman, censure the person:
- (e) The Council may, by writing under the hand of the Chairman, order that person to pay any costs and expenses of and incidental to the inquiry by the Council and any investigation made by the Penal Cases Committee.

(3) No person shall be suspended from practice as a medical practitioner, and the name of no person shall be removed from the register, under paragraph (a) of subsection (1) of this section by reason of any offence committed before the date of his registration, if at that date the Council was aware of his conviction in respect of that offence.

(4) In any inquiry under paragraph (b) of subsection (1) of this section, any finding of fact which is shown to have been made in any proceedings under the Matrimonial Proceedings Act 1963, being proceedings in the Supreme Court of New Zealand or an appeal from a decision in any such proceedings, shall be conclusive evidence of the fact found.

(5) If any University or institution, having granted to any person a degree or diploma or other qualification registrable under this Act, exercises any power conferred by law of striking off the name of that person and notifies to the Council the fact of the striking off,—

- (a) The Secretary to the Council shall make a note of the fact in the register:
- (b) If the said University or institution notifies to the Council the findings of fact on which the decision to strike off the name was based, the findings may (if the Council thinks fit) be treated, for the purposes of any inquiry under this section, as conclusive evidence of the facts found.

(6) No person shall be guilty of disgraceful conduct in a professional respect, by reason only of his having adopted and practised any theory of medicine or surgery, if in so doing he has acted honestly and in good faith.

(7) Every monetary penalty imposed, and all costs and expenses payable, under this section shall be recoverable as a debt due to the Council.

(8) While any order of suspension from practice as a medical practitioner under this section remains in force, the person shall be deemed for the purposes of this Act other than this Part not to be registered as a medical practitioner or conditionally registered, as the case may be, but forthwith on the expiry of the order his rights and privileges as a

registered medical practitioner or person conditionally registered shall be revived as from the date of the expiry.

(9) In any order under this section for the removal from the register of the name of any person, the Council, and (in the event of an appeal against any such order) the Supreme Court, may fix a time after which the person whose name is so removed as aforesaid may apply for re-registration under this Act. At the expiration of that time the person whose name has been so removed may apply for re-registration, and all the provisions of this Act as to registration shall, so far as they are applicable, apply to re-registration under this section.

(10) If neither the Council nor the Supreme Court fixes any such time, the Council may refuse to consider any such application for such time as it thinks fit:

Provided that any person aggrieved by the refusal of the Council to consider that application may apply to the Supreme Court for an order directing the Council to consider that application, or directing the Secretary to the Council to enter in the register the name of that person, and thereupon the Court may make such order in the matter as it thinks fit.

(11) There shall be a right of appeal to the Supreme Court from—

(a) An order of the Council that the name of a person be removed from the register:

(b) Any other order of the Council made under subsection (2) of this section.

(12) Every appeal or application under subsection (9), subsection (10), or paragraph (a) of subsection (11) of this section shall be heard by at least three Judges of the Supreme Court.

(13) The decision of the Supreme Court in any case which must be heard by at least three Judges shall be in accordance with the opinion of the majority of the Judges present; and if the Judges present are equally divided in opinion the decision under review shall be deemed to be affirmed.

(14) The decision of the Supreme Court on any appeal or application under this section shall be final and conclusive.

(15) Except as expressly provided in this Act or in regulations made under this Act, the Supreme Court may regulate its procedure on any appeal or application under this section in such manner as it thinks fit.

(16) An order that the name of a person be removed from the register or an order of suspension or censure shall not take effect, and no penalty or costs or expenses shall be payable, in any case until the expiration of twenty-eight days after the

notification by the Council to the person affected of the making of the order. If within the said period of twenty-eight days the person gives due notice of appeal to the Supreme Court, the order shall not take effect, and no penalty or costs or expenses shall be payable unless and until it is confirmed by the Court or the appeal is for any reason dismissed by the Court:

Provided that, unless the Court otherwise orders, the period of suspension specified in the order shall commence, and the penalty or costs or expenses specified in the order shall be payable, on the day when the order commenced to have effect.

(17) Every appeal to the Supreme Court under this section, or under section 59 of this Act, shall be by way of rehearing; but where any question of fact is involved in any appeal the evidence taken before the Council bearing on the question shall, unless the Court otherwise directs, be brought before the Court as follows:

- (a) As to any evidence given orally, by the production of a copy of the Chairman's note or of a written statement read by the witness while under oath, or of such other materials as the Court considers expedient:
- (b) As to evidence taken by affidavit and as to any exhibits, by the production of the affidavits and such of the exhibits as may have been forwarded to the Court by the Council, and by the production by the parties to the appeal of such exhibits as are in their custody.

(18) Notwithstanding the provisions of subsection (17) of this section, on any appeal to which that subsection relates the Supreme Court may in its discretion rehear the whole or any part of the evidence, and hear and receive further evidence on questions of fact, either by oral evidence or by affidavit. On any such appeal the Court may make such order or recommendation as it thinks proper, having regard to the merits of the case and to the public welfare.

(19) On any appeal under this section from any order of the Council, the Supreme Court may revoke or vary the order, and may itself make any order which could have been made by the Council in the first instance.

Cf. 1950, No. 50, ss. 44 and 45 (3); 1957, No. 83, ss. 7 (1) and 8; 1962, No. 18, ss. 11 and 18 (2) and (3)

**59. Appeals to Supreme Court—**(1) An appeal against any order or recommendation made by the Medical Council on an appeal to the Council under this Act shall lie to the

Supreme Court at the instance of any party to the appeal to the Council.

(2) Every such appeal shall be brought by notice of appeal filed in the Supreme Court within twenty-eight days after the day on which the order or recommendation was notified to the medical practitioner concerned. A copy of the notice of appeal shall be forwarded within the same period to each party directly affected by the appeal, and to the Secretary to the Medical Council.

Cf. 1950, No. 50, s. 45

**60. Legal assessors**—The Medical Council, the Disciplinary Committee, and any Divisional Disciplinary Committee may appoint a legal assessor, who may be present at any inquiry or appeal, and may then or at any time previously or subsequently advise the Council or Committee on matters of law, procedure, and evidence relating thereto.

Cf. 1950, No. 50, s. 47; 1957, No. 83, s. 9

**61. Council and Committees may require evidence to be given**—(1) The Medical Council, the Penal Cases Committee, the Disciplinary Committee, or any Divisional Disciplinary Committee, by notice in writing under the hand of its Chairman or Secretary or the Convener of the Penal Cases Committee, as the case may require, may require any person to attend and give evidence before it at any inquiry or investigation or appeal under this Act, and to produce all books and documents in that person's custody or under his control relating to the subject-matter of any such inquiry, investigation, or appeal.

(2) The Council or Committee may require any such evidence to be given on oath, and either orally or in writing, and for that purpose the Chairman of the Council or Committee or the Convener of the Penal Cases Committee, as the case may require, may administer an oath.

(3) Every person who without lawful justification refuses or fails to give evidence when required to do so by the Medical Council, the Penal Cases Committee, the Disciplinary Committee, or a Divisional Disciplinary Committee, or to answer truly and fully any question put to him by the Council or Committee, or to produce to the Council or Committee any book or document required of him, commits an offence against

this section, and is liable on summary conviction to a fine not exceeding two hundred dollars.

Cf. 1950, No. 50, s. 48; 1957, No. 83, s. 10; 1962, No. 18, s. 20

**62. Immunity of witnesses and counsel**—Witnesses and counsel shall have the same privileges and immunities in relation to inquiries, investigations, and appeals before the Medical Council, the Penal Cases Committee, the Disciplinary Committee, or any Divisional Disciplinary Committee as if they were proceedings in a Court of law.

Cf. 1950, No. 50, s. 49; 1957, No. 83, s. 11

**63. Witnesses' expenses**—(1) Every witness giving evidence or intending to give evidence at the hearing of any inquiry or investigation or appeal under this Act shall be entitled in the discretion of the Medical Council or Penal Cases Committee or Disciplinary Committee or Divisional Disciplinary Committee to such sum for his expenses and loss of time as the Council or Committee may determine.

(2) Subject to any order made by the Council or Committee as to the payment of costs or expenses, all such witnesses' expenses, except expenses of a witness giving evidence or intending to give evidence before the Penal Cases Committee, shall be paid by the Association.

Cf. 1950, No. 50, s. 50; 1957, No. 83, s. 6 (2) (a) and (b)

**64. Power to adjourn and postpone**—Without prejudice to any other provision of this Act, it is hereby declared that the Medical Council may from time to time adjourn the hearing of any proceedings pending before it under this Part of this Act or may postpone any finding or judgment until a further meeting of the Council.

**65. Publication of orders in *New Zealand Medical Journal***—Where—

(a) An order has been made against any registered medical practitioner or person conditionally registered by the Disciplinary Committee or by the Medical Council on any inquiry or appeal under this Act, and no appeal therefrom has been brought within the time limited in the behalf; or

(b) An order has been made against any registered medical practitioner or person conditionally registered by any Court under this Act,—  
the Secretary of the Committee in the case of any order made by the Committee, and the Secretary to the Council in any other case, shall, if the Committee or Council in its discretion so directs, cause a notice stating the effect of the order to be published in the *New Zealand Medical Journal*.

Cf. 1950, No. 50, s. 51

**66. Protection of Council, Committees, and other persons—**Neither the Medical Council, nor the Penal Cases Committee, nor the Disciplinary Committee, nor any Divisional Disciplinary Committee, nor any member or servant of any of them, shall be under any criminal or civil liability whatsoever in respect of anything done or omitted to be done or of any words spoken or written at or for the purposes of the hearing of any inquiry, investigation, appeal, or other proceedings under this Act, unless it is proved to the satisfaction of the Court before which any proceedings are taken that the Council, Committee, member, or servant, as the case may be, has acted in bad faith.

Cf. 1950, No. 50, s. 52; 1957, No. 83, s. 12

## PART IV

### GENERAL PROVISIONS

**67. Annual practising certificates—**(1) Subject to the provisions of this section, every person who is registered as a medical practitioner or conditionally registered commits an offence and is liable on summary conviction to a fine not exceeding ten dollars for each day during which the offence continues who, not having obtained from the Secretary to the Council under this section a certificate which is then in force to the effect that he is registered under this Act, practises medicine or surgery, or any branch of medicine or surgery, under the style or title of a physician, surgeon, doctor, licentiate in medicine or surgery, bachelor of medicine, or medical practitioner, or under any name, title, addition, or description implying that he holds any diploma or degree in medicine or surgery, or in any branch of medicine or surgery, or is otherwise specially qualified to practise medicine or surgery, or any branch of medicine or surgery.

(2) Subject to the payment of the prescribed fee, the Secretary to the Council, on application made to him for that purpose by any such person, shall issue to him a certificate accordingly; and any such certificate shall be in force from the thirty-first day of March next after the issue thereof until the thirty-first day of March following, or, if the person applying for the same so requires, from the issue thereof until the thirty-first day of March next following:

Provided that, if at any time during the currency of the certificate the holder thereof ceases to be registered under this Act, the certificate shall thereupon be deemed to be cancelled.

(3) Any person who is entitled to receive a certificate under this section shall be deemed to have obtained the certificate when he has duly applied to the Secretary to the Council for the same and paid the prescribed fee therefor.

(4) Subject to subsection (5) of this section, this section shall apply with respect to the practice of medicine or surgery in the service of the Crown as well as to the practice of medicine or surgery otherwise than in the service of the Crown.

(5) Nothing in this section shall apply with respect to—

- (a) Any person in so far as he is rendering medical or surgical aid to any person in an emergency;
- (b) Any person holding a provisional certificate for the time being in force under section 32 of this Act;
- (c) Any person holding a certificate of temporary registration for the time being in force under section 33 of this Act.

Cf. 1950, No. 50, s. 54; 1954, No. 10, s. 2 (2)

**68. Restriction on appointments to Council and Committees—**While any person is a member of the Council or of the Disciplinary Committee or of any Divisional Disciplinary Committee, he shall not be appointed to any other such office.

Cf. 1950, No. 50, s. 54A; 1957, No. 83, s. 13 (1)

**69. Penalty for wrongfully using title of medical practitioner—**(1) Every person commits an offence and is liable on summary conviction to a fine not exceeding fifty dollars for each day during which the offence continues who, not being registered as a medical practitioner or conditionally registered, practises medicine or surgery, or any branch of medicine or surgery, under the style or title of a physician, surgeon, doctor, licentiate in medicine or surgery, bachelor of medicine, or

medical practitioner, or under any name, title, addition, or description implying that he holds any diploma or degree in medicine or surgery or in any branch of medicine or surgery, or is otherwise specially qualified to practise medicine or surgery or any branch of medicine or surgery.

(2) It shall be a defence in any prosecution under subsection (1) of this section if the defendant proves—

- (a) That he is registered under some other enactment as a practitioner of the branch of medicine or surgery which he is alleged to have practised; and
- (b) That he is entitled to use the style, title, name, addition, or designation, which is the subject of the charge, by virtue of a degree, qualification, or registration obtained in New Zealand or elsewhere.

(3) Every person commits an offence and is liable on summary conviction to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding three months, who, not being a medical practitioner by virtue of any degree, qualification, or registration obtained in New Zealand or elsewhere, describes himself or otherwise holds himself out as a medical practitioner.

(4) In any prosecution under subsection (3) of this section,—

- (a) In the case of a person who is not entitled to use the title “Doctor” by virtue of any degree, qualification, or registration obtained in New Zealand or elsewhere, proof that the person has described himself or otherwise held himself out as a doctor shall be deemed to be proof that he has described himself or otherwise held himself out as a medical practitioner unless he establishes that the manner and circumstances in which he did the act which is proved were such as to raise no reasonable inference that he was describing himself or otherwise holding himself out as a medical practitioner:
- (b) In the case of a person who is entitled to use the title “Doctor” by virtue of any degree, qualification, or registration obtained in New Zealand or elsewhere, proof that the person has described himself or otherwise held himself out as a doctor shall be deemed to be proof that he has described himself or otherwise held himself out as a medical practitioner if the manner and circumstances in which he did the act which is proved were such as to raise a reasonable

inference that he was describing himself or otherwise holding himself out as a medical practitioner:

- (c) If it is proved that any person has used the title "Doctor", the burden of proving that he is entitled to do so by virtue of any degree, qualification, or registration obtained in New Zealand or elsewhere shall be on that person:
- (d) If it is proved that a person is not registered as a medical practitioner in New Zealand, the burden of proving that he is a medical practitioner by virtue of any degree, qualification, or registration obtained in New Zealand or elsewhere shall be on that person.

Cf. 1950, No. 50, s. 55; 1951, No. 43, s. 4

**70. Appointments to be held only by medical practitioners**—(1) No person shall hold any appointment as physician, surgeon, or other medical officer in the New Zealand armed forces, or in any institution or separate institution under the Hospitals Act 1957, or in any institution within the meaning of the Mental Health Act 1911, or in any prison, or in any other public institution, or to any friendly or other society for affording mutual relief in sickness, infirmity, or old age, or as a Medical Officer of Health, unless he is registered as a medical practitioner or conditionally registered.

(2) Every person who accepts or holds any appointment for which he is disqualified by reason of this section commits an offence and is liable on summary conviction to a fine not exceeding two hundred dollars.

(3) Nothing in this section shall authorise any person who is conditionally registered to describe or otherwise hold himself out as a medical practitioner except as authorised by section 16 of this Act.

Cf. 1950, No. 50, s. 56

**71. Right of registered medical practitioner to sue for fees**—Subject to section 98 of the Social Security Act 1964, every person who is registered as a medical practitioner at the time when any fee or other remuneration for his professional services, whether medical or surgical, is incurred shall be entitled to sue in any Court of law to the extent of the jurisdiction of that Court for the recovery of the fee or other remuneration.

Cf. 1950, No. 50, s. 57

**72. Other persons not to sue for fees**—No person shall be entitled to recover any charge in any Court of law in New Zealand for any medical or surgical advice or attendance, or for the performance of any operation, or for any medicine which he has both prescribed and supplied, unless he was registered as a medical practitioner at the time when the charge in respect of which the section is brought was incurred.

Cf. 1950, No. 50, s. 58

**73. Act not to affect other registered persons**—Except as provided in section 69 of this Act, nothing in this Act shall affect the lawful occupation, trade, or business of any person who is registered under some other enactment in relation to that occupation, trade, or business.

Cf. 1950, No. 50, s. 59

**74. References to medical practitioners in other Acts**—All references in any Act to a medical practitioner, or registered medical practitioner, or duly qualified medical practitioner shall, unless a different intention appears, be deemed to be references to a registered medical practitioner under this Act and, to the extent specified in section 16 of this Act, to a person conditionally registered under this Act.

Cf. 1950, No. 50, s. 60

**75. Regulations**—The Governor-General may from time to time, by Order in Council made on the advice of the Minister given after consultation by the Minister with the Medical Council, make regulations for all or any of the following purposes:

- (a) Prescribing or enabling the Council to prescribe the form of and the method of keeping the register referred to in section 24 of this Act:
- (b) Prescribing or enabling the Council to prescribe forms of application, certificates, and other documents for the purposes of this Act and requiring the use of such forms:
- (c) Prescribing the fees payable in respect of any application under this Act, and in respect of conditional registration, registration as a medical practitioner, and temporary registration, and in respect of the restoration of names after their removal from the register, and in respect of any other alteration of or addition to the register; and also prescribing fees

for the issue of certificates of registration, provisional certificates, annual practising certificates, and any other certificates under this Act, and for copies of certificates, and for inspections of the register:

- (d) Regulating the procedure of the Medical Council or of the Medical Education Committee:
- (e) Prescribing a period for the purposes of paragraph (a) of subsection (1) of section 18 of this Act:
- (f) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof.

Cf. 1950, No. 50, s. 61

**76. Repeals**—The enactments specified in the Schedule to this Act are hereby repealed.

Section 76

## SCHEDULE

### ENACTMENTS REPEALED

- 1950, No. 50—The Medical Practitioners Act 1950. (1957 Reprint, Vol. 9, p. 539.)
- 1951, No. 43—The Medical Practitioners Amendment Act 1951. (1957 Reprint, Vol. 9, p. 578.)
- 1954, No. 10—The Medical Practitioners Amendment Act 1954. (1957 Reprint, Vol. 9, p. 579.)
- 1957, No. 83—The Medical Practitioners Amendment Act 1957. (1957 Reprint, Vol. 9, p. 579.)
- 1961, No. 54—The Universities Act 1961: So much of the First Schedule as relates to the Medical Practitioners Act 1950.
- 1962, No. 18—The Medical Practitioners Amendment Act 1962.
- 1964, No. 30—The Medical Practitioners Amendment Act 1964.
- 1967, No. 94—The Medical Practitioners Amendment Act 1967.

This Act is administered in the Department of Health.