

Hon. Mr. Buddo.

MEDICAL PRACTITIONERS.

ANALYSIS.

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| <p>Title.</p> <p>1. Short Title and commencement.</p> <p>2. Interpretation.</p> <p style="text-align: center;"><i>Medical Board.</i></p> <p>3. Medical Board constituted.</p> <p>4. Chairman of Board.</p> <p>5. Conduct of meetings.</p> <p>6. First meeting of Board. Subsequent monthly meetings.</p> <p>7. Procedure of Board.</p> <p style="text-align: center;"><i>Registration.</i></p> <p>8. Qualifications for registration under Act.</p> <p>9. Notice of intention to apply for registration.</p> <p>10. Objections to proposed registration.</p> <p>11. Documents to be forwarded to Registrar-General.</p> <p>12. Application for registration.</p> <p>13. Applications to be considered by Board.</p> <p>14. Registrar-General to observe directions of Board.</p> <p>15. Appeal to Supreme Court from refusal to register applicant.</p> <p>16. Mode of registration.</p> <p style="text-align: center;"><i>Amendment of Register.</i></p> <p>17. Registrars to notify Registrar-General of all deaths of medical practitioners.</p> <p>18. Medical practitioners to send notice of changes of address, and register to be amended accordingly.</p> <p>19. Name may be erased from register if registered person cannot be found, &amp;c.</p> | <p>20. Additional diplomas, &amp;c., may be entered on register.</p> <p>21. Erasure from register of name of person wrongfully registered. Amendment of register where incorrect particulars as to qualifications, &amp;c.</p> <p>22. Supreme Court may order removal of name from register if medical practitioner guilty of grave misconduct or indictable offence.</p> <p style="text-align: center;"><i>Offences.</i></p> <p>23. Penalty for wrongfully using name or title of medical practitioner.</p> <p>24. Offence wrongfully to procure registration.</p> <p style="text-align: center;"><i>Fees.</i></p> <p>25. Fees.</p> <p style="text-align: center;"><i>Supplementary.</i></p> <p>26. Medical practitioner may sue for fees.</p> <p>27. Unregistered person not to sue for fees, &amp;c.</p> <p>28. Certain appointments to be held only by medical practitioners.</p> <p>29. Register to be open to inspection.</p> <p>30. Copy of register to be gazetted annually.</p> <p>31. Provisional practising certificate.</p> <p>32. Act not to affect chemists, &amp;c.</p> <p>33. Repeal. Saving.</p> <p>34. References to medical practitioners in other Acts.</p> <p>35. District registers to be forwarded to Registrar-General.</p> <p style="text-align: center;">Schedule.</p> |
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A BILL INTITULED

AN ACT to make Better Provision for the Registration and Control of Medical Practitioners. Title.

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

1. This Act may be cited as the Medical Practitioners Act, 1910, and shall come into operation on the first day of January, nineteen hundred and eleven. Short Title and commencement.
- 10 2. In this Act,— Interpretation.
- “Board” means the Medical Board, constituted under this Act:
- “Indictable offence” means an offence which, if committed in New Zealand, would be an indictable offence:
- 15 “Registered medical practitioner” means a person registered under this Act:

“Registrar” means the Registrar of Births and Deaths in the cities of Auckland, Wellington, Christchurch, and Dunedin:

“Registrar-General” means the Registrar-General appointed under the Births and Deaths Registration Act, 1908:

“Registration” and “registered” respectively mean registration under this Act and registered under this Act.

#### Medical Board.

Medical Board  
constituted.

3. (1.) There is hereby established a Board to be called the Medical Board, which shall consist of not less than *seven* nor more than *ten* members, of whom the Inspector-General of Hospitals for the time being shall be one. 10

(2.) The members of the Board shall be registered medical practitioners, and shall be appointed by the Governor. Three of the members so appointed shall be appointed on the recommendation of the New Zealand Medical Association. 15

(3.) Every person so appointed shall hold office for a period of three years from the date of his appointment, and unless he is reappointed shall, on the expiration of that period, cease to be a member of the Board. 20

(4.) Notwithstanding anything in the *last preceding* subsection, the Governor may, if he thinks fit, remove from office any member of the Board for such cause as he thinks fit.

(5.) Every member of the Board who, without the consent of the Board, fails to attend four successive meetings of the Board shall thereupon cease to be a member of the Board. 25

(6.) If any member of the Board resigns his position by writing under his hand addressed to the Chairman, or ceases to be registered under this Act, he shall thereupon cease to be a member of the Board. 30

(7.) If any member of the Board dies, or in any other manner ceases to be a member of the Board, the Governor may appoint another member in his stead, who, in accordance with the terms of his appointment, shall hold office either for the residue of the period for which his predecessor was appointed or for a term of three years, as to the Governor seems fit. 35

(8.) The provisions of subsections *two* to *seven* of this section shall not apply to the Inspector-General of Hospitals in his capacity as a member of the Board.

Chairman of Board.

4. (1.) The Board, at its first meeting or so soon thereafter as practicable, shall appoint one of its members to be the Chairman of the Board, who shall preside at all meetings of the Board at which he is present. 40

(2.) The Chairman so appointed shall hold office for a period of one year, or for such lesser period as he remains a member of the Board. 45

(3.) If the Chairman ceases to be a member of the Board before the expiration of the period of one year aforesaid, the Board shall appoint some other member in his stead to be Chairman for the residue of the said period. 50

(4.) At the expiration of the said period of one year, the Board shall appoint a Chairman for the ensuing year, and the Chairman in office at the date of such appointment may be reappointed.

(5.) If at any meeting of the Board the Chairman for the time being is not present, or there is no Chairman of the Board, the Board shall appoint some member present to act as Chairman in 55

respect of that meeting, and the person so appointed shall have and may exercise all the powers and functions of the Chairman for the purposes of that meeting.

5 (1.) At any meeting of the Board five members shall form a quorum. Conduct of meetings.

(2.) Every question before the Board shall be determined by a majority of the votes of the members present at the meeting of the Board.

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

6. (1.) The Board shall hold its first meeting at such time and place as the Minister of Internal Affairs appoints for that purpose, and the Registrar-General shall send notice of the time and place so appointed to every member of the Board. First meeting of Board.

15 (2.) The Board shall meet for the conduct of its business once at least in every calendar month after the first meeting thereof, and at such other times as a meeting thereof is summoned by the Chairman or by the Registrar-General. Subsequent monthly meetings.

20 (3.) Notice of the time and place of every such meeting, signed by the Chairman or by the Registrar-General, shall be sent to every member of the Board at least three clear days before the time appointed for that meeting.

7. (1.) The Governor may, from time to time by Order in Council, make rules for regulating the procedure of the Board. Procedure of Board.

(2.) In the absence of such rules, or so far as the rules do not extend, the Board may regulate its own procedure as it thinks fit.

*Registration.*

30 8. (1.) Every person shall be entitled to be registered under this Act who satisfies the Board that he is— Qualifications for registration under Act.

(a.) A graduate in medicine and surgery of the University of New Zealand; or

35 (b.) Registered on the register kept in accordance with the provisions of the Acts regulating the registration of medical practitioners in the United Kingdom; or

(c.) Eligible for registration on such last-mentioned register; or

40 (d.) The holder of a diploma (hereinafter referred to as a foreign diploma) approved by the Board, and granted by any university or institution other than the University of New Zealand or than a university or institution situated in the United Kingdom, after a course of not less than five years' study of the subjects pertaining to a medical and surgical degree or license:

45 Provided that the Board may refuse to approve any foreign diploma for the purposes of this Act, unless it appears to the Board that the graduates in medicine and surgery of the University of New Zealand are by virtue of such graduation, and without further examination, entitled to be registered as medical practitioners and to practise medicine and surgery in the country in which is situated the university or other institution by which that diploma has been conferred.

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(2.) Notwithstanding anything in the *last preceding* subsection, no person shall be entitled to be registered under this Act if, in the opinion of the Board, 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 an indictable offence ; 5

or

(b.) He is otherwise not of good fame or character.

Notice of intention  
to apply for  
registration.

9. (1.) Every person desiring to be registered under this Act shall cause at least one month's notice of his intention to apply for registration to be published in the *Gazette* and also in some news- 10  
paper circulating in the district in which the applicant resides or intends to practise ; and shall, at least one month before the date of his application for registration, deposit in the office of the Registrar of Births and Deaths nearest to his place of residence, or nearest to the place where he intends to practise, his diploma or other original 15  
evidence of his qualification, or a true copy of any such document certified as correct in manner required by the Board.

(2.) Every notice under this section shall state such particulars as to the qualifications of the applicant and such other matters as the Board requires. 20

Objections to  
proposed  
registration.

10. (1.) Any person who has reason to believe that an applicant is not entitled to be registered or is not a fit person to be registered under this Act may, at any time before that applicant is so registered, object in writing to his registration, and shall specify the grounds of his objection. 25

(2.) Any person so objecting as aforesaid may forward his objection to the Registrar-General or to the Registrar in whose office any diploma or other documents have been deposited in accordance with the *last preceding* section.

Documents to be  
forwarded to  
Registrar-General.

11. At the expiration of one month after the deposit by the 30  
applicant of the evidence of his qualifications under section *nine* hereof, the Registrar in whose office any such document has been deposited shall forward to the Registrar-General all documents so received by him, and also all objections received by him in respect of the registration of that applicant. 35

Application for  
registration.

12. (1.) Every person desiring to be registered under this Act, who has complied with the provisions of section *nine* hereof, may make application to the Registrar-General to be registered under this Act.

(2.) The applicant shall forward to the Registrar-General with 40  
his application a copy of the advertisement and *Gazette* notice referred to in the said section *nine*.

(3.) On the receipt by the Registrar-General of any such application and of the copies of notices as aforesaid, he shall forth- 45  
with submit the same to the Board for its consideration.

(4.) The Registrar-General shall submit to the Board with that application all diplomas and other documents in respect thereof forwarded to him by any Registrar in pursuance of the *last preceding* section, and also all objections received by the Registrar-General personally in respect of that application. 50

Applications to be  
considered by  
Board.

13. (1.) At its first meeting after any such application has been submitted to it, or so soon thereafter as practicable, the Board shall consider that application and shall give such directions to the Registrar-General in respect thereof as it thinks fit and as are hereinafter authorized. 55

(2.) Before giving any such directions the Board may, if it thinks fit, examine on oath or otherwise any person applying to be registered under this Act, or any person objecting to that registration, or any other person, with respect to that application; and for the purposes of that examination the Board may administer an oath to any person appearing before it.

(3.) The Board 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 Board, or with respect to any objection to that application.

14. (1.) If the Board, after considering any such application as aforesaid, is of opinion that the applicant is entitled to be registered under this Act it shall so direct, and the Registrar-General shall thereupon register that person and shall notify him accordingly.

Registrar-General to observe directions of Board.

(2.) If the Board, after considering any such application as aforesaid, is of opinion that the applicant is not entitled to be so registered it shall direct accordingly, and the Registrar-General shall thereupon refuse to register that person and shall notify the applicant accordingly.

15. If any applicant as aforesaid is dissatisfied with the direction of the Board, he may by motion apply to the Supreme Court for an order to the Registrar-General that the applicant be 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.

Appeal to Supreme Court from refusal to register applicant.

16. (1.) Registration under this Act shall be effected by the entry in a register to be kept for the purpose by the Registrar-General of the following particulars:—

Mode of registration.

(a.) The name of the medical practitioner;

(b.) Particulars as to the qualification or qualifications by virtue whereof he is registered;

(c.) His postal address (including the name of the street and the number of house, where possible);

(d.) The date of registration; and

(e.) Such other particulars as the Board thinks fit.

(2.) The Registrar-General shall, on application in that behalf made to him at any time by a registered medical practitioner, issue to that medical practitioner a certificate of registration.

#### Amendment of Register.

17. Every Registrar of Births and Deaths in New Zealand, on receiving notice of the death of any registered medical practitioner, shall forthwith transmit by post to the Registrar-General a certificate under his hand of that death, with the particulars of the time and place of death; and on the receipt of that certificate the Registrar-General shall erase the name of the deceased medical practitioner from the register.

Registrars to notify Registrar-General of all deaths of medical practitioners.

18. (1.) Every registered medical practitioner who changes his address shall within *three* months send to the Registrar-General a notice of his new address, and the Registrar-General shall thereupon

Medical practitioners to send notice of changes of address, and register to be amended accordingly.

correct the entry in the register relating to that medical practitioner accordingly.

(2.) Every registered medical practitioner who fails to comply with the provisions of the *last preceding* subsection shall be liable on summary conviction to a fine of *five pounds*.

Name may be  
erased from register  
if registered person  
cannot be found, &c.

19. (1.) The Registrar-General may at any time, and shall if the Board so directs, send to any registered medical practitioner, by registered letter addressed to him at his address as appearing on the register, an inquiry as to whether or not he desires to have his name retained on 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 Registrar-General, the Registrar-General shall, if the Board so directs, remove from the register the name of the medical practitioner to whom the letter was so sent.

(3.) Any person whose name has been removed from the register in pursuance of this section may apply to the Registrar-General to have his name restored to the register, and on proof to the satisfaction of the Board that his name has been removed by mistake, the Registrar-General shall, if so directed by the Board, restore to the register the name of that medical practitioner :

Provided that if any person is aggrieved by the refusal of the Board to restore 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 *twelve* hereof.

Additional diplomas,  
&c., may be entered  
on register.

20. Every registered medical practitioner who obtains any medical or surgical diploma, other than that by virtue whereof he is registered, may apply to the Board to amend the register so far as it relates to the qualifications of that medical practitioner, and on such application the Board shall, if satisfied that the applicant is entitled to the diploma in respect of which the application is made, direct the Registrar-General to amend the register accordingly, and the Registrar-General shall thereupon insert in the register particulars as to that diploma.

Erasure from  
register of name of  
person wrongfully  
registered.

21. (1.) If any person has been registered under this Act by reason of any false or fraudulent representation or declaration, made either verbally or in writing, or if any person not entitled to be registered under this Act has been so registered, the Registrar-General shall, if so directed by the Board, erase the name of that person from the register, and the fact of that erasure shall be notified by the Registrar-General in the *Gazette*.

Amendment of  
register where  
incorrect particulars  
as to qualifications,  
&c.

(2.) If any particulars appearing on the register in respect of the qualifications of any medical practitioner are proved to the satisfaction of the Board to be or are to the knowledge of the Board false or erroneous in any respect, the Board shall direct the Registrar-General to erase those particulars from the register, or to otherwise amend the register, and the Registrar-General shall thereupon amend the register accordingly.

(3.) The provisions of the *last preceding* subsection shall apply, notwithstanding the fact that at the time when the entry in the register was made the medical practitioner 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 *one* of this section, or any person the particulars of whose qualifications have been altered in pursuance of subsection *two* thereof, may by motion apply to the Supreme Court for an order to the Registrar-General 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.

22. (1.) If any registered medical practitioner is, in the opinion of the Board, guilty of any grave impropriety or infamous conduct in any professional respect, or if any such practitioner has been convicted of an indictable offence either before or after his registration, the Board may apply to the Supreme Court for an order for the removal of the name of that person from the register, and the Court may make such order in the matter as it thinks fit:

Supreme Court may order removal of name from register if medical practitioner guilty of grave misconduct or indictable offence.

Provided that the name of a medical practitioner shall not be removed from the register under this section by reason of an indictable offence committed before the date of his registration, if at that date the Board was aware of his conviction in respect of that offence.

(2.) In any order under this section for the removal from the register of the name of a medical practitioner the Court may fix a time after which the person whose name is so removed as aforesaid may apply for re-registration under this Act.

(3.) At the expiration of such time any person whose name has been so removed may apply for re-registration, and all the provisions as to registration shall so far as applicable apply to re-registration under this section.

(4.) If the Court does not fix any such time as aforesaid, the Board may refuse to consider any such application for such time as it thinks fit:

Provided that any person aggrieved by the refusal of the Board to consider such application may apply to the Court for an order directing the Board to consider that application, or directing the Registrar-General 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.

(5.) For the purposes of this section the Board may, if it thinks fit, at any time summon before it any registered medical practitioner whose conduct is in question, to show cause why an application for the removal of his name from the register should not be made; and any medical practitioner who refuses or neglects to appear before the Board when summoned so to appear commits an offence and is liable on summary conviction to a fine of *twenty* pounds.

#### Offences.

23. Every person commits an offence and is liable on summary conviction to a fine of *five* pounds for each day during which the offence continues, who, not being registered under this Act, practises medicine or surgery, or any branch of medicine or surgery, under

Penalty for wrongfully using name or title of medical practitioner.

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 5  
medicine or surgery or any branch of medicine or surgery.

Offence wrongfully  
to procure  
registration.

24. 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 verbally or in writing, and any person 10  
who assists or attempts to assist him therein, commits an indictable offence, and is liable on conviction thereof to imprisonment with or without hard labour for a term not exceeding *three* years.

#### Fees.

Fees.

25. (1.) The Registrar-General or the Registrar of Births and 15  
Deaths, as the case may be, shall take and receive the fees set out in the Schedule hereto with respect to the matters specified in that Schedule.

(2.) Until the appropriate fee has been paid, the Registrar-General or the Registrar as aforesaid may decline to do any act, or to 20  
permit any act to be done, or to receive any document, in respect of which that fee is payable.

(3.) All fees received under this Act shall be paid into the Public Account and form part of the Consolidated Fund.

#### Supplementary.

25.

Medical  
practitioner may  
sue for fees.

26. Every person registered under this Act shall be entitled to sue in any Court of law in New Zealand to the extent of the jurisdiction of that Court for the recovery of his fees or other remuneration for his professional services, whether medical or surgical.

Unregistered person  
not to sue for fees,  
&c.

27. No person shall be entitled to recover any charge in any 30  
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 under this Act at the time when the charge in respect of which the action is brought was incurred. 35.

Certain  
appointments to be  
held only by  
medical  
practitioners.

28. (1.) No person shall hold any appointment as physician, surgeon, or other medical officer in the Defence Forces, or in any institution or separate institution under the Hospitals and Charitable Institutions Act, 1909, or in any mental hospital, or in any prison, or in any other public institution, or to any friendly or other society 40  
for affording mutual relief in sickness, infirmity, or old age, or as a medical officer of health, unless he is registered under this Act.

(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 of *fifty* pounds. 45.

Register to be open  
to inspection.

29. The register shall at all reasonable times be open to inspection by the public.

Copy of register to  
be gazetted  
annually.

30. (1.) A copy of the register, certified by the Registrar-General to be a true copy, and arranged in alphabetical order of the surnames of the registered medical practitioners referred to therein, 50.



shall in the month of December in each year be sent by the Registrar-General to the Minister of Internal Affairs, and shall by him be published in the *Gazette*.

5 (2.) Any copy of the register so published shall be *prima facie* evidence in all judicial proceedings of the contents of the register as at the date of the certificate referred to in the *last preceding* subsection.

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

Provided that in the case of any person whose name does not appear in such copy a certified copy under the hand of the Registrar-General of the entry of the name of that person on the register, shall be evidence of the contents of the register with respect to that  
15 entry.

(4.) Without restricting in any way the preceding provisions of this section, a certificate of registration issued under section *sixteen* hereof shall be evidence of the registration of the holder of that certificate as at the date thereof; and a certificate under the hand  
20 of the Registrar-General that any person is a registered medical practitioner shall be evidence of that fact.

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

25 31. (1.) Notwithstanding anything to the contrary in this Act, the Registrar-General shall, if so directed by the Board, issue to any person applying for registration under this Act a provisional certificate which shall entitle that person to practise as a medical practitioner pending the consideration of his application by the Board.

Provisional practising certificate.

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

35 (3.) The holder of any such certificate shall, while such certificate remains in force, be deemed for all purposes to be a registered medical practitioner.

(4.) The Registrar-General may cancel that certificate at any time on the direction of the Board.

40 32. Nothing in this Act shall affect the lawful occupation, trade, or business of any registered pharmaceutical chemist, registered dentist, registered midwife, or registered nurse.

Act not to affect chemists, &c.

33. (1.) Section two and Part I of the Medical Act, 1908, are hereby repealed.

Repeal.

45 (2.) All appointments, licenses, regulations, rules, Orders in Council, orders, registers, registrations, records, instruments, and generally all acts of authority which originated under the enactments hereby repealed, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the  
50 corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.

Saving.

(3.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

References to  
medical  
practitioners  
in other Acts.

34. 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. 5

District registers to  
be forwarded to  
Registrar-General.

35. Forthwith upon the coming into operation of this Act, the Registrars of Births and Deaths in Auckland, New Plymouth, Napier, Nelson, Hokitika, Picton, Christchurch, Dunedin, and Invercargill shall forward to the office of the Registrar-General at Wellington all medical registers in their possession or custody under the Medical Act, 1908, and those registers shall be retained in the custody of the Registrar-General. 10 15

Schedule.

### SCHEDULE.

#### FEES.

	£	s.	d.
On deposit of diploma or other evidence of qualification ...	5	5	0
On restoration of name after removal from register ...	1	1	0
For certificate of registration ... ..	0	5	0
On alteration of qualification in register ... ..	0	10	0
On any other alteration of register ... ..	0	5	0
On inspection of register ... ..	0	2	0