

PHYSIOTHERAPY AMENDMENT BILL

AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE

THE Health and Disability Commissioner Bill, as reported from the Social Services Committee, has been divided into 12 separate Bills by the Committee of the whole House as follows:

This Bill, comprising clauses 65 to 69.

The Health and Disability Commissioner Bill, comprising clauses 2 to 6, Parts I to IV, clauses 46 to 64A, clauses 101 to 107, and the Schedules.

The Occupational Therapy Amendment Bill, comprising clauses 70 to 74.

The Dietitians Amendment Bill, comprising clauses 75 to 78.

The Medical Auxiliaries Amendment Bill, comprising clauses 79 to 81.

The Medical Practitioners Amendment Bill, comprising clauses 82 and 83.

The Pharmacy Amendment Bill, comprising clauses 84 and 85.

The Optometrists and Dispensing Opticians Amendment Bill, comprising clauses 86 to 88.

The Nurses Amendment Bill, comprising clauses 89 to 91.

The Psychologists Amendment Bill, comprising clauses 92 to 94.

The Chiropractors Amendment Bill, comprising clauses 95 to 97.

The Dental Amendment Bill, comprising clauses 98 to 100.

No. 44—3A

Price Code: J

[AS REPORTED FROM THE SOCIAL SERVICES COMMITTEE]

House of Representatives, 16 June 1994.

Clauses inserted are shown with single rule before first line and after last line.

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE]

House of Representatives, 28 September 1994.

Clauses now forming separate Bills are indicated by points of ellipsis.

Hon. Jenny Shipley

PHYSIOTHERAPY AMENDMENT

ANALYSIS

Title	24c. Suspension of action under this Act
1. Short Title and commencement	24d. Director of Proceedings may lay charge under section 24 of this Act
66. Interpretation	24e. Director of Proceedings to prosecute charge
67. Disciplinary powers of Board	24f. Costs may be awarded to Commissioner
68. New sections inserted	69. Appeals from decisions of Board
24A. Complaints to be notified to Commissioner	
24B. Consultation with Commissioner	

A BILL INTITULED

An Act to amend the Physiotherapy Act 1949

BE IT ENACTED by the Parliament of New Zealand as follows:

5 **1. Short Title and commencement**—(1) This Act may be cited as the Physiotherapy Amendment Act 1994, and shall be read together with and deemed part of the Physiotherapy Act 1949 (hereinafter referred to as the principal Act).

10 (2) Except as provided in **subsection (3)** of this section, this Act shall come into force on the day after the date on which it receives the Royal assent.

(3) Sections 66 and 68 of this Act shall come into force on a date to be appointed by the Governor-General by Order in Council.

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| <p>66. Interpretation—Section 2 (1) of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:</p> <p>“‘Code’ means the Code of Health and Disability Services Consumers’ Rights for the time being prescribed by regulations made under section 64 of the Health and Disability Commissioner Act 1994:</p> <p>“‘Commissioner’ means the Health and Disability Commissioner under the Health and Disability Commissioner Act 1994:</p> <p>“‘Director of Proceedings’ means the person for the time being designated under section 13A of the Health and Disability Commissioner Act 1994 as the Director of Proceedings.”</p> <p>67. Disciplinary powers of Board—(1) Section 24 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:</p> <p>“(1A) In any case to which subsection (1) of this section applies, the Board may order the person in respect of whom the powers conferred by that subsection have been exercised to pay such sum as the Board thinks fit in respect of either or both of the following matters:</p> <p>“(a) The costs and expenses of and incidental to the inquiry by the Board:</p> <p>“(b) The costs and expenses of and incidental to any investigation conducted in relation to the matter to which the inquiry relates.”</p> <p>(2) Section 24 (2) of the principal Act is hereby amended by omitting the words “the next succeeding section”, and substituting the words “section 25 of this Act”.</p> <p>(3) Section 24 (5) of the principal Act is hereby amended by adding to the proviso the sentence “The Board may also reduce the amount of any sum ordered to be paid under subsection (1A) of this section or determine that no sum shall be payable under that subsection.”</p> | <p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> |
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New

- (4) Section 24 (7) of the principal Act is hereby amended—
- (a) By inserting, after the word “section”, the words “, and any sum ordered to be paid under subsection (1A) of this section,”:
- (b) By inserting, after the words “such penalty”, the words “or sum”:
- (c) By inserting, after the words “the penalty” in each place where they appear, the words “or sum”.

10 **68. New sections inserted**—The principal Act is hereby amended by inserting, after section 24, the following sections:

“24A. **Complaints to be notified to Commissioner**—Where—

15 “(a) A complaint is made to the Board against any person who is registered under this Act, being a complaint alleging any matter that might be grounds entitling the Board to exercise its powers under section 24 of this Act; or

20 “(b) The Board becomes aware, in respect of any person who is registered under this Act, of any matter that might be grounds entitling the Board to exercise any such powers,—

the Registrar shall forthwith notify the Commissioner of that complaint or matter.

25 “24B. **Consultation with Commissioner**—Where, in accordance with section 24A of this Act, a complaint or matter is notified to the Commissioner, the Commissioner may at any time after receiving the notification, consult with the Board in relation to the complaint or matter.

30 “24C. **Suspension of action under this Act**—(1) Notwithstanding anything in this Part of this Act, but subject to subsection (2) of this section and to section 24D (3) of this Act, where a complaint or matter is notified to the Commissioner in accordance with section 24A of this Act, no action shall be taken under this Act concerning the complaint or matter until—

35 “(a) The Commissioner notifies the Board—
“*(i)* That the complaint or matter is not to be investigated, or investigated further, under the Health and Disability Commissioner Act 1994; or

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- “(ii) That the complaint or matter has been resolved; or
- “(iii) That the complaint or matter has been investigated under that Act and the complaint or matter is not to be referred to the Director of Proceedings in accordance with **section 33 (f)** of that Act; or
- “(b) The Director of Proceedings notifies the Board that the Director of Proceedings has decided, pursuant to **section 36A** of that Act, not to institute disciplinary proceedings under this Act in relation to the complaint or matter.
- “(2) Nothing in this section prevents the taking of any action under section 22 of this Act or section 7 (2) of the Physiotherapy Amendment Act 1953.
- “**24D. Director of Proceedings may lay charge under section 24 of this Act**—(1) This section applies where,—
- “(a) After conducting an investigation under **Part IV of the Health and Disability Commissioner Act 1994**, the Commissioner is of the opinion that any action (within the meaning of that Act) that was the subject-matter of the investigation, being the action of a person who is registered under this Act, was in breach of the Code; and
- “(b) The Director of Proceedings decides, pursuant to **section 36A** of that Act, that proceedings should be taken under section 24 of this Act against that person.
- “(2) Where this section applies, the Director of Proceedings shall frame an appropriate charge and refer it to the Board.
- “(3) Where the Director of Proceedings refers a charge to the Board under **subsection (2)** of this section, the Board shall, subject to **section 24E** of this Act, deal with the charge under section 24 of this Act, and the provisions of this Part of this Act shall apply accordingly with all necessary modifications.
- “**24E. Director of Proceedings to prosecute charge**— Notwithstanding anything in this Part of this Act, any charge laid under **section 24D** of this Act by the Director of Proceedings shall be prosecuted at the hearing by the Director of Proceedings, who for that purpose may be represented by counsel or otherwise.

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“24F. **Costs may be awarded to Commissioner—**

(1) Where,—

5 “(a) In any proceedings under section 24 of this Act, the Board is empowered to make an order under subsection (1A) of that section; and

“(b) The proceedings relate to a charge laid by the Director of Proceedings under section 24D of this Act,—
the person concerned may be ordered under section 24 (1A) of
10 this Act to pay—

“(c) Any costs and expenses of and incidental to any investigation made by the Commissioner under the Health and Disability Commissioner Act 1994 in relation to the subject-matter of the charge:

15 “(d) The costs and expenses of and incidental to the prosecution of the charge by the Director of Proceedings.

“2) Notwithstanding anything in section 24 (7) of this Act, any costs and expenses payable pursuant to subsection (1) of this section shall be paid to the Commissioner.

20 “(3) Nothing in this section limits section 24 (1A) of this Act.”

69. Appeals from decisions of Board—(1) Section 25 (1) of the principal Act is hereby amended by inserting, after the word “penalty,” the words “or the payment by him of any
25 sum under section 24 (1A) of this Act,”.

(2) Section 25 (3) of the principal Act is hereby amended by omitting the words “of the last preceding section”, and substituting the words “or, as the case requires, subsection (1A) of section 24 of this Act”.