

MEDICAL PRACTITIONERS REGISTRATION ORDINANCE 1935-1957.*

Amended 3/62

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An Ordinance to provide for the Registration of
Persons engaged in Medical Practice.

PART I.—PRELIMINARY.

Short title.
Short title
amended:
No. 17, 1938,
s. 4.

1. This Ordinance may be cited as the *Medical Practitioners Registration Ordinance 1935-1957*.*

Commence-
ment.

2. This Ordinance shall commence on a date to be fixed by the Administrator by notice in the *Gazette*.†

Repeal.

3. After the commencement of this Ordinance, the Ordinance and Acts of the State of South Australia, and the Ordinance of the Territory of North Australia specified in the Schedule to this Ordinance, shall cease to apply to the Northern Territory.

Parts.

4. This Ordinance is divided into Parts, as follows:—

- Part I.—Preliminary.
- Part II.—Administration.
- Part III.—Registration and Qualifications.
- Part IV.—The Conduct of Medical Practice.
- Part V.—Miscellaneous.

Definitions.
Amended by
No. 5, 1945,
s. 2; and
No. 4, 1957,
s. 3.

5. In this Ordinance, unless the contrary intention appears—
“Board” means the Medical Board constituted under this Ordinance;
“Member” means a member of the Medical Board, constituted in accordance with this Ordinance;

* The *Medical Practitioners Registration Ordinance 1935-1957* comprises the *Medical Practitioners Registration Ordinance 1935* as amended. Particulars of the Principal Ordinance and of the amending Ordinances are set out in the following table:—

Ordinance.	Number and Year.	Date notified in Commonwealth Gazette.	Date of Assent by Administrator.	Date of Commencement.
<i>Medical Practitioners Registration Ordinance 1935</i> ..	No. 1, 1935	14th March, 1935	..	1st April, 1935
<i>Medical Practitioners Registration Ordinance 1945</i> ..	No. 5, 1945	19th July, 1945	..	19th July, 1945
<i>Medical Practitioners Registration Ordinance 1957</i> ..	No. 4, 1957	..	12th April, 1957	10th June, 1957

† The date fixed was 1st April, 1935—see table above.

- “ Register ” means the Register of medical practitioners who are registered under this Ordinance;
- “ Registered medical practitioner ” means a person registered under this Ordinance;
- “ The Chairman ” means the Chairman of the Board appointed under this Ordinance;
- “ The Chief Medical Officer ” means the person appointed under the *Quarantine Act* 1908-1950 to be the Chief Quarantine Officer (General), Northern Territory;
- “ The Director-General ” means the Director-General of the Department of Health;
- “ The Minister ” means the Minister of State for Health.

PART II.—ADMINISTRATION.

6.—(1.) For the purposes of this Ordinance, there shall be a Medical Board, which shall be charged with the general Administration of this Ordinance.

Establishment
of Medical
Board.

(2.) The Board shall be a body corporate, with perpetual succession and a common seal, and may acquire, hold and dispose of real and personal property, and shall be capable of suing and being sued.

(3.) All Courts, Judges and persons acting judicially shall take judicial notice of the seal of the Board affixed to any document or notice and shall deem that it was duly affixed.

7.—(1.) The Board shall consist of the Chief Medical Officer and two other members who shall be appointed by the Minister.

Members of
Medical Board.

(2.) A person shall not be eligible for appointment as a member of the Board unless he has been registered as a medical practitioner in any State or Territory of the Commonwealth for not less than five years.

(3.) The Chief Medical Officer shall be *ex officio* Chairman of the Board.

(4.) In the case of the illness or absence from the Territory of the Chief Medical Officer, the officer acting in that position shall be *ex officio* Chairman of the Board.

(5.) At the first meeting in each year, the members of the Board may elect one of their number to be Deputy Chairman until the first meeting of the Board in the next calendar year.

(6.) In the absence of the Chairman from any meeting, the Deputy Chairman shall preside.

(7.) A quorum of the Board shall consist of the Chairman or Deputy Chairman and one member.

(8.) At any meeting of the Board at which the Chairman is present, he shall have a deliberative vote, and, in the event of equality of voting, a second or casting vote.

(9.) If at any meeting of the Board at which the Chairman is not present, the members present differ in opinion upon any matter, the determination of that matter shall be postponed till the next meeting of the Board.

Meetings of
the Board.

8.—(1.) Subject to this section, all meetings of the Board shall be convened by the Chairman by notice in writing to the other members of the Board.

Amended by
No. 5, 1945,
s. 3.

(2.) The Director-General may, by notice in writing to each member of the Board, direct that a meeting be held at the time and place specified in the notice.

Period of
office of
members of
Board.

9. Each member shall be appointed for a term of three years, and shall be eligible for re-appointment.

Removal of
member from
office.

10. The Minister may, if satisfied that any member has been guilty of misbehaviour or is incapacitated, remove the member from office.

Office of
member, how
vacated.

11.—(1.) In addition to retirement of members by expiration of their term of office, or removal from office in accordance with the last preceding section, the seat of a member shall become vacant on—

- (a) the death, lunacy or bankruptcy of the member, or the conviction of the member of an indictable offence;
- (b) the member ceasing to be registered under this Ordinance;
- (c) the resignation of the member; or
- (d) the absence of the member, without leave of the Board, from two consecutive meetings of the Board.

(2.) Any member appointed to fill any vacancy on the Board shall hold office for the unexpired portion of the term for which his predecessor was appointed.

Power to send
for witnesses
and documents.

12.—(1.) For the purposes of this Ordinance, the Board may by writing under the hand of the Chairman summon any person to attend the Board at a time and place named in the

summons, and then and there to give evidence and to produce any books, documents or writings in his custody or control which he is required by the summons to produce.

(2.) The Board may, in its discretion, on the application of any party to any proceedings before the Board, summon any person to appear as a witness before the Board.

13. Any member of the board may administer an oath to any person appearing as a witness before the Board, whether the witness has been summoned or appears without being summoned, and may examine the witness upon oath.

Power to examine upon oath.

14.—(1.) Where any witness to be examined before the Board conscientiously objects to take an oath, he may make an affirmation that he conscientiously objects to take an oath, and that he will state the truth, the whole truth, and nothing but the truth, to all questions that may be asked him.

Affirmation in lieu of oath.

(2.) An affirmation so made shall be of the same force and effect, and shall entail the same liabilities as an oath.

15 If any person served with a summons to attend the Board, when the summons is served personally, fails without reasonable excuse to attend the Board, or to produce any documents, books or writings in his custody or control which he was required by the summons to produce, he shall be guilty of an offence.

Penalty for failing to attend or produce documents.

Penalty: Fifty pounds.

16. If any person appearing as a witness before the Board refuses to be sworn or to make an affirmation or to answer any question relevant to the proceedings before the Board put to him by any of the members, he shall be guilty of an offence.

Penalty for refusing to be sworn or to give evidence.

Penalty: Fifty pounds.

17 Any witness before the Board who knowingly gives false testimony touching any matter, material to any inquiry, shall be guilty of an offence.

Giving false testimony.

Penalty: Imprisonment for one year.

18 The members of the Board shall not be personally liable for any act or default of the Board done or omitted to be done in good faith in administering this Ordinance.

Protection of members of Board.

19.—(1.) The Board may demand and, in advance, collect such fees as are prescribed.

Collection of fees.

(2.) Such fees and all penalties and other moneys recovered or realized under this Ordinance shall be paid into the Consolidated Revenue Fund.

PART III.—REGISTRATION AND QUALIFICATIONS.

Register.

20. The Board shall keep a Register to be called "The Register of Medical Practitioners".

Mode of registration.

21.—(1.) A person shall be registered by the entering in the Register of his name, and such other particulars relating to him as are prescribed.

(2.) Every such entry in the Register shall be signed by the Chairman or Deputy Chairman of the Board.

Qualifications for registration.

22. Any person who is of good fame and character, and who is—

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- (a) the holder of a degree in medicine or surgery of any University in the Commonwealth or the Dominion of New Zealand, which is legally authorized to grant such degree; or
 - (b) registered or possesses a qualification entitling him to be registered under the Medical Acts of the Parliament of the United Kingdom or any Act amending or substituted for those Acts or any of them,

shall be entitled to apply to the Board for registration as a medical practitioner.

Registration by the Board.
Amended by No. 5, 1945, s. 4.

23. When any person has applied to be registered and has proved to the satisfaction of the Board—

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- (a) that he was registered at the commencement of this Ordinance under the law in force in any State or Territory of the Commonwealth; or
 - (b) that he is entitled to apply for registration by virtue of compliance with the requirements specified in the last preceding section; and
 - (c) that the testimonial, diploma, licence or certificate testifying to his qualification was, after examination, duly obtained by him from a university, college, or other body recognized in the country to which such university, college, or other body belongs; and in the period during which he has held the certificate he has not been removed from the register of any country for any cause which disqualifies him from being registered under this Ordinance; and has not been removed from the register of persons entitled to practise medicine in the United Kingdom in pursuance of the Medical Acts of the Parliament of the United Kingdom or any Act amending or substituted for those Acts or any of them; and

(d) that he has passed through a regular course of medical and surgical study of not less than five years' duration in a country being part of the British Empire, or in a country not being part of the British Empire in which registered legally qualified medical practitioners of any State or Territory of the Commonwealth are, by virtue of being so registered and without further examination, entitled to practise their profession either on registration or otherwise,

the Board may cause the person to be registered by entering in the Register his name and such other particulars as are prescribed; and issue to him, upon payment of the prescribed fee, a certificate in the prescribed form:

Provided that the Board shall refuse to register any person holding a qualification entitling him to practise in any country, not being part of the British Empire, where such qualification was granted, unless it appears to the Board that registered legally qualified medical practitioners of any State or Territory of the Commonwealth are, by virtue of being so registered and without further examination, entitled to practise their profession in such country either on registration or otherwise.

24.—(1.) If the Board refuses to register any person under this Ordinance, the Board shall, if required by such person, state in writing the reason for such refusal. Such person may thereupon appeal to the Supreme Court of the Northern Territory.

Appeal in case of refusal by the Board to register any person.

(2.) An appeal under this section shall be in the nature of a re-hearing.

25.—(1.) The Board shall cause to be published in the *Gazette* in every year a true copy of the Register.

Copy of Register to be published.

(2.) A copy of the Register so published shall be *prima facie* evidence of the registration of the persons named therein.

26. Any person who procures himself to be registered under this Ordinance by means of any false or fraudulent representation or by the production of any false certificate or testimonial shall be guilty of an offence.

Fraudulent registration.

Penalty: One hundred pounds.

27.—(1.) Any registered medical practitioner who obtains or already possesses any higher degree or any qualification other than the qualification in respect of which he is registered may have such higher degree or additional qualification inserted in the Register without payment of any additional fee.

Register may be altered.

(2.) There shall be inserted in the Register the particulars of any honour conferred on any registered medical practitioner by His Majesty the King.

Change of
address to be
notified.

28.—(1.) Any registered medical practitioner who changes his professional address shall forthwith give notice of the fact by post to the Chairman of the Board.

(2.) The Registrar-General of Births, Marriages and Deaths or any District Registrar of Births, Marriages and Deaths who registers the death of any medical practitioner, shall forthwith transmit notice thereof by post to the Chairman of the Board.

(3.) Any medical practitioner who certifies any other registered medical practitioner as insane shall forthwith transmit notice thereof by post to the Chairman of the Board.

Alteration of
Register.

29.—(1.) The Board shall remove the names of all registered medical practitioners who have died and may make such alterations and amendments in the Register as it thinks fit.

(2.) The Board may, by notice to any registered medical practitioner addressed to him according to his address in the Register, inquire whether he has changed his address or residence, and, if an answer is not returned to such notice within six months after the date of the posting thereof, the Board may remove the name of such person from the Register.

(3.) Any name removed from the Register under this Part may be restored by the Board.

PART IV.—THE CONDUCT OF MEDICAL PRACTICE.

Cancellation of
registration for
fraud and on
other grounds.

30.—(1.) The Board shall remove from the Register the name of any person—

- (a) whose registration has been obtained by fraud or misrepresentation;
- (b) whose qualification has been withdrawn or cancelled by the university, college or other body by which it was conferred or by the General Council of Medical Education and Registration of the United Kingdom;
- (c) who has been convicted in any part of His Majesty's Dominions or elsewhere of an indictable offence or of any other offence which, in the opinion of the Board, renders him unfit to practise;
- (d) who has been certified insane; or
- (e) who is deemed by the Board guilty of—
 - (i) habitual drunkenness or habitual addiction to any drug;
 - (ii) unprofessional conduct; or
 - (iii) any such other offence as is prescribed.

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(2.) If the Board removes the name of any person from the Register, it shall, if so required by him, state in writing the reason for the removal.

(3.) Any person, whose name has been removed from the Register in pursuance of this section, may appeal to the Supreme Court of the Northern Territory to have his name restored to the Register, and the Board shall, if the Supreme Court so orders, restore his name accordingly.

(4.) In this section "unprofessional conduct" includes—

- (a) the practice of advertising with a view to procuring patients or practice or of sanctioning or of being associated with or employed by those who sanction such advertisement;
- (b) the practice of canvassing or employing an agent or canvasser for the purpose of procuring patients or practice or of sanctioning or of being associated with or being employed by one who sanctions such employment; or
- (c) such other matters as are prescribed.

31.—(1.) Before removing from the Register the name of any person, the Board shall make due inquiry and the person may be represented by counsel, attorney or agent, who may examine witnesses and address the Board on his behalf.

Removal of names from Register.

(2.) Pending the hearing of a charge against any person, the Board may suspend the registration of that person who shall thereupon cease to practise.

32.—(1.) Any person whose name is removed from the Register in pursuance of this Part shall, within thirty days after the date of posting of a notice demanding the return of his certificate of registration, surrender his certificate to the Board for cancellation.

Surrender of certificate on removal of name from Register.

(2.) Any person who fails to comply with the provisions of the last preceding sub-section shall be guilty of an offence.

Penalty: Five pounds for every day after the period of thirty days during which the certificate is not surrendered.

33. A person shall not practise medicine or surgery in all or any one or more of its branches, except in his own name.

Person not to practise except in his own name.

34.—(1.) A person other than a registered medical practitioner shall not—

No person other than a registered medical practitioner to practise medicine.

- (a) give or perform, for fee or reward, any medical or surgical service, attendance, operation or advice;
- (b) advertise or hold himself out as being, or in any manner pretend to be, or take or use the name or title (alone or in conjunction with any other title, word or letter) of a physician, doctor of medicine, licentiate in medicine or surgery, master in surgery, bachelor of medicine or surgery, doctor, surgeon, medical qualified or registered practitioner, apothecary, accoucheur, or any other medical or surgical name or title; or

(c) advertise or hold himself out, directly or indirectly by any name, word, letter, title or designation, whether expressed in words, or by letters, or partly in one and partly in the other (either alone or in conjunction with any other word or words, or by any other means whatsoever) as being entitled or qualified, able or willing to practise medicine or surgery, in any one or more or all of its branches, or to give or perform any medical or surgical service, attendance, operation or advice.

(2.) Any person, who for himself or as assistant, servant, agent or manager, does or permits any act, matter, or thing contrary to this section or any part thereof, shall be guilty of an offence.

Penalty: One hundred pounds.

Person
advertising
himself liable to
penalty.

35. Any person who exhibits or publishes, or causes, permits or suffers to be exhibited or published any letter, circular, placard, handbill, card, or advertisement of any kind whereby any person advertises or holds himself out contrary to any part of the last preceding section, or attempts to do so, shall be guilty of an offence.

Penalty: Ten pounds.

No unregistered
person may sue
for fees, &c.

36. A person who is not a registered medical practitioner shall not sue or counterclaim for, set off or recover any charge or remuneration for any medical or surgical advice, attention, service or operation, or for any medicine which he has both prescribed and supplied.

Medical
appointments
not to be held
by unregistered
persons.

37. A person who is not a registered medical practitioner shall not hold any appointment—

(a) as a physician, surgeon or other medical officer—

(i) in any hospital, infirmary, dispensary, lying-in hospital, or in any hospital for the insane, gaol, penitentiary, house of correction, or other public institution for affording medical relief in sickness, infirmity or old age;

(ii) to any health centre, or welfare, natal, or industrial clinic or other centre or clinic for the promotion of the public health by the prevention or early diagnosis or the treatment of disease;

(iii) to any friendly society; or

(b) as a medical officer of health or medical inspector.

38. A person who is not a registered medical practitioner shall not sign—

Signing of death certificates.

- (a) any certificate required by any law of the Territory from a physician, surgeon, licentiate in medicine or surgery, medical practitioner or medical officer of health; or
- (b) any medical certificate of the cause of death of any deceased person:

Provided that this paragraph shall not apply where there is no person so registered within a distance of twenty miles of the place where the death occurred.

39. Nothing in this Part shall prejudice or affect—

Application of Part IV.

- (a) the giving or performance, in any case of emergency, of any medical or surgical service, attendance, operation or advice by a medical practitioner duly registered under the law in force in any State or Territory of the Commonwealth; or
- (b) the lawful business or occupation of a dentist, pharmaceutical chemist or druggist, nurse, midwife, or masseur.

PART V.—MISCELLANEOUS.

40. A registered medical practitioner shall be entitled to sue in any Court of competent jurisdiction for the recovery of his fees or other remuneration for his professional services, whether medical or surgical, and it shall be sufficient to state in the particulars of demand the words "for medical services" which shall include every demand for medical or surgical aid including medicines when supplied by the plaintiff to the defendant.

Registered medical practitioner may sue for fees, &c.

41. Proceedings for offences against this Ordinance may be instituted in any Court of competent jurisdiction by the Chairman or by any person thereto authorized in writing by the Chairman.

Institution of proceedings.

42. Any person who commits any breach of the provisions of this Ordinance, for which a penalty is not specially provided, shall be liable on conviction to a penalty not exceeding Fifty pounds.

Penalty for offences where no special penalty provided.

42A.—(1.) If any person is charged with a contravention of this Ordinance, the Minister may, with the written consent of such person, inquire into and determine the charge and shall have power, by order, a copy of which shall be published in the Gazette, to impose, enforce, mitigate or remit any pecuniary penalty which he shall determine shall have been incurred.

Power of Minister to determine charges.

Inserted by No. 5, 1945, s. 5.

(2.) Every such order shall be final and without appeal and shall not be liable to be quashed on any account and a copy thereof shall be delivered to such person. The amount specified in any such order shall be a debt due to the Crown and may be sued for and recovered by action instituted by any officer authorized in writing by the Director-General in any Court of Summary Jurisdiction as a civil debt recoverable summarily.

(3.) The Minister in holding any inquiry under this section shall hold such inquiry in public and may—

- (a) summon the parties and any witnesses before him;
- (b) take evidence on oath; and
- (c) require the production of documents.

Summoning
of witnesses.
Inserted by
No. 5 1945,
s. 5.

42B. Any person summoned as a witness at any inquiry under the last preceding section who—

- (a) disobeys such summons;
- (b) refuses to be sworn as such witness;
- (c) refuses or fails to produce any document he may be required to produce; or
- (d) being sworn as a witness refuses or fails to answer any question lawfully put to him,

shall be guilty of an offence.

Penalty: Twenty pounds.

Delegation by
Minister.
Inserted by
No. 5, 1945,
s. 5.

42C.—(1.) The Minister may, by writing under his hand, delegate any of his powers under section forty-two A of this Ordinance (except this power of delegation) so that the delegated powers may be exercised by the delegate with respect to a particular inquiry defined and specified in the instrument of delegation.

(2.) Any delegation by the Minister under this section shall be revocable in writing at will and no delegation shall prevent the exercise of any power by the Minister.

Regulations.
Amended by
No. 5, 1945,
s. 6.

43. The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters which are required or permitted to be prescribed, or which by this Ordinance are necessary or convenient to be prescribed, for carrying out or giving effect to this Ordinance, and in particular prescribing matters providing for and in relation to—

- (a) the meetings and proceedings of the Board and the conduct of the business thereof, and the duties of its officers;
- (b) the forms to be used for the purposes of the Ordinance;
- (c) the manner of keeping the Register and the particulars to be entered thereon;

- (d) the scale of fees to be charged and paid in respect of any application, registration, certificate or other proceeding, act or thing provided or required under this Ordinance;
- (e) the control of the professional conduct of registered medical practitioners and the practice of the profession; and
- (f) the imposition of penalties not exceeding Twenty pounds which may be imposed for breaches of the Regulations.

THE SCHEDULE.

ORDINANCE AND ACTS OF THE STATE OF SOUTH AUSTRALIA AND
ORDINANCE OF THE TERRITORY OF NORTH AUSTRALIA.

Ordinance No. 17 of 1844 of the Province of South Australia, intituled **AN ORDINANCE** to define the Qualifications of Medical Practitioners in this Province for certain purposes.

Medical Act, 1880, of the Province of South Australia (No. 193 of 1880).

The Medical Act Amendment Act, 1889, of the Province of South Australia (No. 471 of 1889).

Medical Ordinance 1927 of the Territory of North Australia (No. 11 of 1927).
