

4 ELIZ. II. No. 27, 1955.

Medical Acts Amendment Act.

MEDICINE AND PHARMACY.

An Act to Amend "The Medical Acts, 1939 to 1948," in certain particulars.

4 ELIZ. II.
No. 27.
THE
MEDICAL ACTS
AMENDMENT
ACT OF 1955.

[ASSENTED TO 7TH NOVEMBER, 1955.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. (1.) This Act may be cited as "*The Medical Acts Amendment Act of 1955.*" Short title.

(2.) *"*The Medical Acts, 1939 to 1948,*" are in this Act referred to as the Principal Act. Principal Act.

(3.) The Principal Act and this Act may be collectively cited as "*The Medical Acts, 1939 to 1955.*" Collective title.

2. Section four of the Principal Act is amended— Amendment of s. 4.

(a) By inserting after the definition "President" the following definition, namely:—

" "Qualification"—Any degree or diploma of any university or institution legally authorised to grant that degree or diploma, and which degree or diploma is approved of by the Board ; " ; and Qualification.

(b) By adding to the definition "Registrar" the colon and words " : the term includes a person appointed to be the deputy registrar and any person who for the time being occupies the office or performs the duties of the Registrar ".

3. Subsection one of section sixteen of the Principal Act is amended by adding the following paragraph, namely:— Amendment of s. 16 (1).

" (vii.) Prescribing the experience in medicine, surgery, and obstetrics to be obtained as part of the qualification for registration as a medical practitioner."

* 3 G. 6 No. 10 and amending Acts.

Repeal of
and new
s. 19.

4. Section nineteen of the Principal Act is repealed and, in lieu of that repealed section, the following section is inserted, namely :—

Medical
practitioner.

“ [19.] (1.) Subject to this Act, every person shall be entitled to be registered as a medical practitioner under this Act who makes application to the Board in the prescribed form and pays the prescribed registration fee, and who proves to the satisfaction of the Board that he has attained the age of twenty-one years and is of good fame and character, and that—

- (a) He is the holder of a degree, diploma, or certificate (obtained after due examination) in medicine or surgery of any university, college or other body in Great Britain, Northern Ireland, the Commonwealth of Australia, or the Dominion of New Zealand, and which university, college, or other body is duly recognised in the country in question and is legally authorised to grant such degree, diploma, or certificate ; or
- (b) He has passed through a regular course of medical study of not less than five years' duration in a school of medicine and has received after due examination from some university, college, or other body duly recognised for that purpose in the country to which such university, college, or other body belongs a degree, diploma, or certificate which—
 - (i.) Is equal to or higher than the degree in medicine issued after due examination by the University of Queensland ;
 - (ii.) Is approved by the Board ; and
 - (iii.) Is recognised by the Governor in Council by Order in Council published in the *Gazette* as qualifying him to practise medicine in the country in question,

and who further proves to the satisfaction of the Board that subsequent to obtaining such qualification so relied upon by him—

- (c) He has served for a period or periods amounting in the aggregate to twelve months as a resident medical officer and has obtained the

1955.

Medical Acts Amendment Act.

prescribed experience in medicine, surgery, and obstetrics in one or more of the hospitals hereinafter specified, namely, any hospital to which **"The Hospitals Acts, 1936 to 1946,"* apply or any hospital in Queensland approved by the Board, or in the case of a hospital outside Queensland, a hospital specifically approved by the Board, and in any event produces a certificate or certificates as prescribed showing that such service or services was or were performed and completed to the satisfaction of the competent authority or authorities controlling the hospital or hospitals concerned ; or

(d) He is duly entitled to practise and practised as a medical practitioner for at least three years in a State or country outside Queensland.

(2.) No person who applies by virtue of paragraph (b) of subsection one of this section shall be registered as a medical practitioner under this Act unless and until the professors of medicine, surgery, and obstetrics of the University of Queensland, by oral and clinical examinations arranged or approved by them and conducted in the English language, are satisfied of his knowledge, skill, and ability efficiently to practise medicine in Queensland and those professors certify to the Board accordingly.

(3.) If a certificate of service as prescribed by paragraph (c) of subsection one of this section is refused by any competent authority referred to in that paragraph and a resident medical officer considers that he is justly entitled to that certificate, he may call upon the competent authority concerned to show cause to the Medical Board why such certificate should not be issued. The Board may direct the competent authority concerned to issue, and thereupon such competent authority shall issue such certificate.

The Board shall make a report to the Minister upon any case arising under this subsection.

(4.) Any certificate of service as prescribed by paragraph (c) of subsection one of this section shall be in the prescribed form or to the like effect and shall contain the prescribed particulars or, in so far as not prescribed,

* 1 G. 6 No. 4 and amending Acts.

particulars of the experience in medicine, surgery, and obstetrics obtained by the applicant for registration to whom it refers.

(5.) The Governor in Council may direct the governing authority of any hospital within Queensland referred to in subsection one of this section to appoint as a resident medical officer any person who (being otherwise qualified as prescribed by paragraph (a) or (b) of subsection one of this section) will be entitled to be registered as a medical practitioner upon serving as a resident medical officer in a hospital and for the period prescribed by paragraph (c) of subsection one of this section, and thereupon that governing authority shall so appoint that person and shall continue such appointment for the period specified with respect to his service unless the Governor in Council otherwise directs.

(6.) Nothing contained in this section shall be deemed to prevent the professors herein referred to from including in any certificate to the Board a condition that such certificate is given subject to the examinee being required to serve as a resident medical officer in a hospital in Queensland approved of by the Board and the Board shall give effect to that condition.

(7.) The operation of paragraph (b) of subsection one of this section may at any time be suspended by the Governor in Council by Proclamation published in the *Gazette*, and, if so suspended, the said paragraph (b) shall be of no force or effect unless and until the Governor in Council revokes such Proclamation.

(8.) Notwithstanding the provisions of subsection two of this section, if any one or more of the professors referred to therein shall be unable or unwilling to act the Board may after consulting the Senate of the University of Queensland appoint a person or persons to act in his or their place.”.

Amendment
of s. 19A.

5. Subsection two of section 19A of the Principal Act is hereby repealed.

Amendment
of s. 20.

6. Section twenty of the Principal Act is amended by adding the following subsection, namely:—

Registration
for limited
purpose.

“(3.) (a) For the purpose of enabling a person qualified as prescribed by paragraph (a) or paragraph (b) of subsection one of section nineteen of this Act to

1955.

Medical Acts Amendment Act.

perform within Queensland the service as a resident medical officer prescribed by paragraph (c) of subsection one of section nineteen of this Act or included as a condition in a certificate to the Board by the professors mentioned in subsection two of the said section nineteen, the Board shall, upon application made in that behalf, issue a certificate, in the prescribed form, of limited registration as a medical practitioner under this Act to any person who satisfies the Board that, save the performance of that service, he is entitled to be registered as a medical practitioner under this Act.

(b) Where the Board is satisfied that a person is justly entitled to any degree, diploma or certificate referred to in paragraph (a) of subsection one of section nineteen of this Act, and that such degree, diploma or certificate will be conferred upon him in due course according to the practice of the university, college, or other body in question in conferring the same, the Board shall, in respect of an application made by that person under paragraph (a) of this subsection, deem him to hold that degree, diploma or, as the case may be, certificate.

(c) Subject to this Act, a holder of a certificate of limited registration as a medical practitioner under this Act shall in respect of the performance in Queensland of service as a resident medical officer as prescribed by paragraph (c) of subsection one of section nineteen of this Act, or by a condition included in a certificate to the Board by the aforesaid professors, and for purposes of that service be deemed to be a medical practitioner under and within the meaning of this Act.”.

7. Section twenty-two of the Principal Act is ^{Repeal of} repealed and, in lieu of that repealed section, the ^{and new} following section is inserted, namely :— ^{s. 22.}

“ [22.] A medical practitioner who makes application ^{Registration} in the prescribed form for registration as a specialist ^{as a} and pays the prescribed fee and who satisfies the Board ^{specialist.} that he has gained special skill in a particular speciality by adequate experience in that speciality—

- (a) In practice for a period of not less than five years ;
- (b) In a hospital approved by the Board for not less than three years ; or
- (c) Partly in practice and partly in a hospital so approved for a period of not less than four years

and, in relation to a speciality in respect whereof degrees or diplomas are generally granted or recognised, who also satisfies the Board that he is the holder of, or is justly entitled to have conferred upon him, a degree or diploma approved by the Board in the speciality to which his application relates of a university or other institution which is legally authorised to grant that degree or diploma, shall be entitled to be registered as a specialist in accordance with his application.”.

**Amendment
of s. 23.**

8. Section twenty-three of the Principal Act is amended by repealing the words “ and upon the surrender by him of his certificate of registration as such ”.

**Amendments
of s. 35.**

9. Section thirty-five of the Principal Act is amended—

(a) By repealing subparagraph (ii.) of the first paragraph and inserting, in lieu of that repealed subparagraph, the following subparagraph, namely :—

“(ii.) Makes use of any title or description of medical significance which he is not entitled to have inserted in the proper register pursuant to section nineteen or section twenty-six of this Act ;” ;

(b) By repealing in subparagraph (v.) of the first paragraph the words and commas “, in the opinion of the Tribunal,” ;

(c) By repealing in subparagraph (vii.) of the first paragraph the word “ or ” where that word last appears and adding to that subparagraph the following proviso, namely :—

“ Provided that this paragraph does not apply to those notices which, according to the recognised custom of the medical profession, are published on commencement, or resumption, or change of address, of practice ; or ” ;

(d) By repealing in subparagraphs (ix.) and (x.) of the first paragraph all words from and including the words “ fails to call in ” to and including the words “ nearest Government Medical Officer ” and inserting in each of those subparagraphs, in lieu of the words so repealed, the words “ fails to advise the member of the Police Force in charge of the nearest police station ” ;

1955.

Medical Acts Amendment Act.

(e) By repealing in subparagraph (xi.) of the first paragraph the words "fails to advise the Director-General and the nearest Government Medical Officer" and inserting in lieu of the words so repealed, the words "fails to advise the member of the Police Force in charge of the nearest police station"; and

(f) By adding to that section the following paragraph, namely—

"Subparagraph (ii.) of the first paragraph of this section shall apply so that a person who is both a medical practitioner and registered as a dentist under **The Dental Acts, 1902 to 1953,*" shall not be or be deemed to be guilty of misconduct in a professional respect for making use of a title or description of medical significance the use whereof by him is authorised by **The Dental Acts, 1902 to 1953,*" or the by-laws thereunder."

10 The following section is inserted after section New s. 37A inserted. thirty-seven of the Principal Act, namely:—

"[37A.] (1.) Where, upon investigation, the Board When Board may impose disciplinary punishment. is of opinion—

(a) That a medical practitioner has been guilty of any misconduct in a professional respect or of any other charge which may be made against that medical practitioner before the Tribunal under this Act; and

(b) That the import of the misconduct or matter of the other charge in question, while not sufficiently serious to warrant the Board charging the medical practitioner concerned therewith before the Tribunal, nevertheless warrants disciplinary action,

then, subject to this section, the Board in lieu of charging the medical practitioner concerned before the Tribunal, may according as it shall deem just in the circumstances—

(i.) Order that he pay to the Board by way of a pecuniary penalty such sum not exceeding twenty pounds as it shall specify; or

(ii.) Reprimand him.

* 2 E. 7 No. 25 and amending Acts.

The provisions of subsection five of section forty-one of this Act shall apply with respect to a pecuniary penalty imposed by the Board under this subsection.

(2.) Before dealing with a medical practitioner under this section the Board shall notify him in writing of its intention so to deal with him and shall state in that notice—

- (a) The misconduct in a professional respect or matter of the other charge whereof he is guilty in the opinion of the Board ;
- (b) A time not earlier than fourteen days after the date of that notice within which he may make representations in writing to the Board, or appear in person and be heard by the Board at a place stated in the notice ; and
- (c) That he may elect, in writing given to the Board within the time referred to in paragraph (b) of this subsection, to be dealt with by the Tribunal in lieu of the Board.

(3.) In dealing with a medical practitioner under this section, the Board shall give due consideration and weight to any representations in writing made to it by him within the time allowed by the notice in writing under subsection two of this section and shall hear him if he appears in person before it pursuant to that notice.

(4.) Where within the time allowed in his case by the notice under subsection two of this section, a medical practitioner elects in writing given to the Board to be dealt with by the Tribunal in lieu of the Board, the Board shall not deal with him under this section.

Amendments
of s. 47.

11. Section forty-seven of the Principal Act is amended by inserting, after subsection four, the following subsections, namely :—

“(4A.) Any person who advertises or exhibits any diploma, certificate, membership, license, letters, testimonial or any title, status or document, or takes or uses any letters (either alone or in conjunction with any title, word or letter) which may be construed to imply that he is qualified to practise medicine or any branch of medicine shall, if he is not a medical practitioner, be deemed to hold himself out as being a medical practitioner.

1955.

Medical Acts Amendment Act.

It shall be immaterial that the holding out does not refer to the actual practice of medicine.

This subsection does not apply to the advertising or exhibiting by a person who is duly registered under an Act of this State (whether passed before or after the enactment of this subsection) which provides for the registration of persons practising any branch of medicine—

- (a) Of a certificate of that registration ; or
- (b) Of any diploma or other document evidencing the qualification entitling him to registration under the Act in question,

nor does this subsection apply to the advertising or exhibiting by a person of a degree or diploma in a branch of medicine of a university in the Commonwealth of Australia at any time when an Act of this State does not provide for the registration of persons practising that branch of medicine.

(4B.) Any person who uses the title “doctor” or any abbreviation of that title (whether alone or in conjunction with any title, word or letter) where such title or abbreviation may be construed to be used to confer upon such person the status of a medical practitioner shall be deemed to hold himself out as being a medical practitioner.

(4c.) Any person other than a medical practitioner, or a person acting under the supervision and instruction of a medical practitioner, who in the course of, or for a purpose of or connected with the practice or attempted practice of medicine or any branch of medicine displays, or exhibits or uses a sphygmomanometer or a stethoscope or a hypodermic syringe or an x-ray apparatus, shall be deemed to hold himself out as being a medical practitioner.”.

12. Section forty-eight of the Principal Act is amended— Amendments
of s. 48.

(a) By repealing in subsection two the words “one month” and by inserting, in lieu of those repealed words, the words “three months” ;

(b) By repealing in subsection three the words “one month” and by inserting, in lieu of those repealed words, the words “three months” ; and

(c) By repealing subsection four and inserting, in lieu of that repealed subsection, the following subsection, namely :—

“(4.) Upon application duly made pursuant to subsection three of this section, the Board shall review the account the subject of that application.

If in respect of the professional services to which the account relates the Board finds upon such review that the amount charged in the account—

- (a) Is not an excessive fee or remuneration, the Board shall certify that finding ; or
- (b) Is an excessive fee or remuneration the Board shall certify that finding and also the lesser amount found by the Board to be a reasonable fee or remuneration.”.

New heading and s. 70A inserted.

13. The following heading and section are inserted after section seventy of the Principal Act, namely :—

“*Corneal Grafting.*

Removal of eyes of deceased persons.

[70A.] (1.) If any person, either in writing at any time or orally in the presence of two or more witnesses during his last illness, has expressed a request that his eyes be used for therapeutic purposes after his death, the person lawfully in possession of his body after his death may, unless he has reason to believe that the request was subsequently withdrawn, authorise the removal of the eyes from the body for use for those purposes.

(2.) Without prejudice to subsection one of this section the person lawfully in possession of the body of a deceased person may authorise the removal of the eyes from the body for the purpose aforesaid unless that person has reason to believe—

- (a) That the deceased person had expressed an objection to his eyes being so dealt with after his death, and had not withdrawn it ; or
- (b) That the surviving spouse or any surviving relative of the deceased person objects to the deceased person’s eyes being so dealt with.

1955.^a

Medical Acts Amendment Act.

(3.) An authority given under this section in respect of a body shall be sufficient authority for the removal of the eyes from that body and their use for the purposes aforesaid ; but no such removal shall be effected except by a legally qualified medical practitioner, who must have satisfied himself by a personal examination of the body that life is extinct.

(4.) If the person empowered under this section to give authority for the removal of the eyes from a body has reason to believe that an inquest may be required to be held on the body, he shall not give such authority without the consent of the coroner for the petty sessions district wherein the deceased died. The coroner may give his consent upon such conditions as he thinks proper.

(5.) No authority shall be given under this section in respect of a body by a person entrusted by another person with the body for the purpose only of its interment or cremation.

(6.) In the case of a body lying in a hospital, any authority under this section may be given—

- (a) By the person or authority having the control and management of the hospital ; or
- (b) By any person authorised in writing by the person or authority having such control and management.

(7.) Nothing in this section shall be construed as rendering unlawful any dealing with, or with any part of, the body of a deceased person which would have been lawful if this section had not been passed.”.

14. Section seventy-nine of the Principal Act is ^{Amendment} amended by adding the following subsection, namely :— ^{of s. 79.}

“(3.) The Board, a member or officer thereof, a medical practitioner, or any other person shall not be legally liable in respect of anything done by it or him in good faith for a purpose of complying with any provision of this Act.”.