

VICTORIA.



ANNO VICESIMO OCTAVO

VICTORIÆ REGINÆ.

No. CCLXII.

An Act to Consolidate the Laws relating to Medical Practitioners. [1st June, 1865.]

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows—

1. This Act shall come into operation on the first day of June in the year of our Lord One thousand eight hundred and sixty-five and shall be called and may be cited as the "Medical Practitioners Statute 1865." It is divided into the following Parts—

PART I.—Medical Board of Victoria ss. 3–8.

PART II.—Legally qualified Medical Practitioners ss. 9–14.

PART III.—Medical Witnesses ss. 15–19.

PART IV.—Schools of Anatomy ss. 20–35.

2. The Acts specified in the First Schedule hereto annexed to the extent to which the same are therein expressed to be repealed shall be and the same are hereby repealed. Nothing herein shall affect any act or thing lawfully done or any right or privilege acquired or any certificate or license granted or any appointment nomination or register made under the said Acts or any of them before the coming into operation of this Act and all offences committed and penalties incurred and proceedings commenced against or under any of the said Acts before the coming into operation of this Act shall be prosecuted enforced and continued respectively as if this Act had not been passed. The members of the Medical

Medical Board of Victoria in existence immediately before the commencement of this Act shall be and continue until lawfully removed members of the Medical Board of Victoria under this Act.

PART I.—MEDICAL BOARD OF VICTORIA.

Medical board.

3. The Governor in Council may appoint a committee consisting of at least three members being of the medical profession, one of whom shall be nominated president under the style of "The Medical Board of Victoria" and may from time to time remove the said members or any of them and may upon the removal death or resignation of any member of the board appoint such other person as the Governor in Council shall think fit.

Quorum.

4. A quorum of the board shall consist of not less than three members thereof and in the absence of the president from any meeting of the board one of the members present may be elected chairman of such meeting.

Registration of legally qualified medical practitioners.

5. The board shall from time to time cause the names of all persons certified by the board to be legally qualified medical practitioners within the meaning of Part II. of this Act or of any Act hereby repealed to be registered with their qualifications and residences in a book to be kept by the board for that purpose in the form in the Second Schedule to this Act or as nearly as conveniently may be in accordance therewith copies of the said register shall in the month of January in each year be published in the *Government Gazette* and shall be published and sold by the board and any copy of such register shall be evidence in all courts of law and before all justices and others that the persons therein specified are registered according to the provisions of this Act.

Second Schedule.

Examination of candidates and witnesses.

6. The board may question any person who may attend before the board as hereinafter mentioned and any witness who may be produced before the board and may take a solemn declaration from such person or witness and if any person shall wilfully knowingly and corruptly make any false statement upon such examination or in such declaration or shall utter or attempt to utter or put off as true before the board any false forged or counterfeit diploma degree license certificate or other document or writing, he shall be guilty of a misdemeanor and being thereof duly convicted he shall be liable to be imprisoned for any period not exceeding three years.

Board may alter register and erase names therefrom.

7. The board may from time to time make the necessary alterations in the registration of the qualifications and addresses of the persons registered under this Part of this Act and may from time to time write or cause to be written a letter to any registered person addressed to him according to his last known address to enquire whether he has ceased to practise or has changed his residence and if no answer be returned to such letter within the period of six months from the sending thereof the board may erase the name of such person from the register and may if they shall afterwards think fit to do so restore the same to the register.

8. Every

8. Every deputy registrar in Victoria on receiving notice of the death of any medical practitioner shall forthwith transmit such notice by post to the president of the Medical Board in Melbourne and on receipt of such notice the Medical Board shall erase the name of such deceased medical practitioner from the register of legally qualified medical practitioners and any legally qualified medical practitioner on changing his residence shall intimate the same to the Medical Board.

Notice of death or change of residence of legally qualified medical practitioners to be sent to the Medical Board.

PART II.—LEGALLY QUALIFIED MEDICAL PRACTITIONERS.

9. Every natural born or naturalised subject of Her Majesty possessed or hereafter becoming possessed of any one or more of the qualifications described in the Third Schedule hereto who shall prove on personal attendance to the satisfaction of the Medical Board that the testimonium diploma license or certificate testifying to such qualification was duly obtained by him after due examination from some university college or other body duly recognised for such purpose in the country to which such university college or other body may belong shall be and be deemed to be and shall be entitled to registration as a legally qualified medical practitioner and shall receive from the Medical Board a certificate of qualification.

Qualification of medical practitioners.
Third Schedule.

10. If any person fraudulently or by false representations obtains a certificate as a legally qualified medical practitioner under the provisions of this Part of this Act, or shall forge alter or counterfeit any such certificate or shall utter or use any such forged altered or counterfeited certificate knowing the same to have been forged altered or counterfeited or shall falsely advertise or publish himself as having obtained such certificate he shall be deemed guilty of a misdemeanor and being thereof duly convicted shall be liable to imprisonment with or without hard labor for any period not exceeding three years.

Persons forging or obtaining a certificate under false representations guilty of a misdemeanor.

11. It shall not be lawful for any person unless registered under Part I. of this Act or under one of the Acts hereby repealed to pretend to be or to take or use the name or title of a physician doctor of medicine licentiate in medicine and surgery master in surgery bachelor of medicine doctor surgeon medical or general practitioner or apothecary or surgeon apothecary or accoucheur or licentiate or practitioner in midwifery or any other medical or surgical name or title and every unregistered person so offending shall forfeit and pay a sum not exceeding fifty pounds to be recovered in a summary manner before any two justices by any person suing for the same in any court of petty sessions. Provided that any person who shall feel himself aggrieved by any such conviction or order of justices may appeal therefrom to the next court of general sessions of the peace in accordance with the law for the time being in force relating to appeals from justice to courts of general sessions of the peace.

Persons unregistered using medical titles to be subject to fine.

12. Every medical practitioner who shall have received such certificate of qualification as aforesaid shall afterwards be entitled to

Medical practitioners holding certificates to be entitled to sue for fees &c.

sue in any court of law within Victoria to the extent of the jurisdiction of such court 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 and no person shall be entitled to recover any charge in any court of law for any medical or surgical advice or attendance or for the performance of any operation or for any medicine which he shall have both prescribed and supplied unless he shall prove on the trial that he is registered in accordance with the provisions of Part I. of this Act or of some Act hereby repealed.

Medical appointments cannot be held or certificates signed by unregistered persons to be illegal.

13. No unregistered person shall hold any appointment as a physician surgeon or other medical officer in passenger or other vessels leaving any port in Victoria, or in any hospital infirmary dispensary or lying-in hospital or in any lunatic asylum gaol penitentiary house of correction house of industry or other public institution for affording medical relief in sickness infirmity or old age, or as a medical officer of health and no certificate required by any Act now in force or that may hereafter be passed from any physician surgeon licentiate in medicine surgery or other medical practitioner shall be valid unless the person signing the same be registered in accordance with the provisions of Part I. of this Act or of some Act hereby repealed. Provided that nothing herein contained shall render invalid any such certificate from a duly appointed medical officer of any of Her Majesty's land or sea forces in full pay although such officer may not be registered under Part I. of this Act.

14. Nothing in this Part of this Act shall be construed to infringe on the rights and privileges hitherto enjoyed by chemists and druggists or dentists.

PART III.—MEDICAL WITNESSES.

Coroner or justice may summon any qualified medical witnesses.
6 and 7 Wm. IV. c. 89
s. 1.

15. Whenever upon the summoning or holding of any coroner's inquest or upon the holding of any enquiry by a justice touching the death of any person it shall appear to the coroner or justice (as the case may be) that the deceased person was not at or immediately before his death attended by any legally qualified medical practitioner within the meaning of this Act or of some Act hereby repealed such coroner or justice may issue a summons for the attendance as a witness at such inquest or enquiry of some legally qualified medical practitioner as aforesaid in actual practice who shall reside near to the place where such inquest or enquiry is holden but where the deceased person was attended by any such practitioner the coroner or justice shall issue a summons for his attendance only; or if the deceased was attended by more than one such practitioner the coroner or justice may cause all or any of them to be summoned at his discretion.

16. The

16. The coroner or justice either in such summons as aforesaid or by an order in writing may at any time before the termination of the inquest or enquiry direct any legally qualified medical practitioner to perform a *post mortem* examination of the body of the deceased either with or without an analysis of the contents of the stomach or intestines. Provided that if in any case it appear to the coroner or justice that the death of such deceased person was probably caused partly or entirely by the improper or negligent treatment of any medical practitioner or other person then such practitioner or other person shall not be allowed to perform or assist at any such examination or analysis although he shall in every such case be allowed to be present thereat.

Coroner or justices may order a *post mortem* examination.
6 and 7 Wm. IV. c. 89 s. 1.

17. Whenever it shall appear to the coroner or to a majority of the jury at any such inquest or to the justice at any such enquiry that the cause of death has not been satisfactorily explained by the practitioner or practitioners examined in the first instance at such inquest or enquiry the coroner or justice shall forthwith cause any other legally qualified practitioner or practitioners to be summoned as a witness or witnesses at such inquest or enquiry; and shall direct him or them to perform a *post mortem* examination with or without such analysis as aforesaid whether such an examination shall have been previously performed or not. Provided that where such additional evidence is at the instance of a majority of the jury it shall be lawful for such majority to name to the coroner any particular legally qualified medical practitioner or practitioners whom they wish to attend and in that case such practitioner or practitioners shall be summoned and no other.

Additional medical evidence in cases where the cause of death is not satisfactorily explained by first examination.
Ib. s. 2.

18. When any legally qualified medical practitioner has attended at an inquest or enquiry in obedience to any such summons as aforesaid he shall for such attendance and for giving evidence at such inquest or enquiry be entitled to receive the remuneration of one guinea and (in addition thereto) for the making of any such *post mortem* examination the remuneration of two guineas and if the place of his residence shall be more than ten miles distant from the place where the inquest or enquiry is holden then such practitioner shall be entitled to a sum of one shilling for every mile of such extra distance in addition. Provided that no remuneration shall be paid for the performance of any *post mortem* examination instituted without the previous direction of the coroner or justice. Provided also that where the death shall have happened in any public hospital gaol or other public building no medical officer appointed with salary to attend such hospital gaol or building shall be entitled to any such remuneration.

Remuneration to medical witnesses.
Ib. s. 3.

19. Where any such summons or order of any coroner or justice as aforesaid shall have been served upon any medical practitioner to whom the same was directed or shall have been left at his usual residence in sufficient time for him to obey the same and he shall nevertheless not obey such summons or order he shall for such neglect forfeit and pay a penalty or sum of not less than three pounds nor more than twenty, to be recovered in a summary way before any two justices, unless he shall

Ib. s. 5.

Medical witnesses neglecting to attend to forfeit and pay a penalty.

at

at the hearing of the case shew a good and sufficient excuse for such neglect to the satisfaction of such justices.

PART IV.—SCHOOLS OF ANATOMY.

Interpretation of term.

20. The word "person" wherever the same occurs in this Part of this Act shall be deemed to include any society whether established by charter or otherwise.

Governor in Council may grant licenses to practice anatomy.

21. The Governor with the advice of his Executive Council may grant a license to practice anatomy on such conditions for such period and subject to revocation in such manner as may be therein expressed to any graduate or licentiate in medicine or to any legally qualified medical practitioner in Victoria, or to any legally qualified professor or teacher of anatomy medicine or surgery or to any student attending any school of anatomy on application from any such person for such purpose countersigned by a stipendiary magistrate or by the Chief Medical Officer of Victoria certifying that to his knowledge or belief such person so applying is about to carry on the practice of anatomy.

Governor in Council may appoint inspectors of schools of anatomy.

22. The Governor with the advice aforesaid may appoint from time to time one or more person or persons to be an inspector or inspectors of places where anatomy is carried on and every such inspector shall continue in office until he be removed by the Governor and the Governor with the advice aforesaid may direct what places where anatomy is carried on every such inspector shall superintend and in what manner every such inspector shall transact the duties of his office.

Inspectors to make returns of subjects for anatomical examination.

23. Every inspector to be appointed by virtue of this Part of this Act shall make a quarterly return to the Registrar General of Victoria of every deceased person's body that has been removed for anatomical examination to any place in his district where anatomy is carried on distinguishing the sex and as far as is known at the time the name and age of each person whose body was so removed as aforesaid.

And to inspect places where anatomy is practised.

24. It shall be lawful for every such inspector to visit and inspect at any time any place within his district at which anatomy is practised under the provisions of this Part of this Act.

Persons having lawful custody of bodies may permit them to undergo anatomical examination in certain cases.

25. It shall be lawful for any executor or other person having lawful possession of the body of any deceased person and not being an undertaker or other person entrusted with the body for the purpose only of interment to permit the body of such deceased person to undergo anatomical examination, unless to the knowledge of such executor such person shall have expressed his desire either in writing at any time during his life or verbally in the presence of two or more witnesses during the illness whereof he died that his body after death might not undergo such examination, or unless the surviving husband or wife or any known relative of the deceased person shall require the body to be interred without such examination.

Provision in case of persons directing anatomical examinations after their death.

26. If any person either in writing at any time during his life or verbally in the presence of two or more witnesses during the illness whereof he died shall direct that his body after death be examined anatomically

anatomically or shall nominate any person by this Part authorised to examine bodies anatomically to make such examination and if before the burial of the body of such person such direction or nomination shall be made known to the person having legal possession of the dead body then such last mentioned person shall direct such examination to be made and in case of any such nomination as aforesaid shall request and permit any person so authorised and nominated as aforesaid to make such examination unless the deceased person's surviving husband or wife or nearest known relative or any one or more of such person's nearest known relatives being of kin in the same degree shall require the body to be interred without such examination.

27. In no case shall the body of any person be removed for anatomical examination from any place where such person may have died until after twelve hours from the time of such person's decease nor until after six hours' notice to the inspector of the district of the intended removal of the body or if no such inspector have been appointed or such inspector shall reside at a greater distance than ten miles from the place of death then to the legally qualified medical practitioner or stipendiary magistrate nearest to the place of death nor unless a certificate stating in what manner such person came by his death shall previously to the removal of the body have been signed by the legally qualified medical practitioner who attended such person during the illness whereof he died or if no such practitioner attended such person during such illness then by some such practitioner or some stipendiary magistrate who shall be called in after the death of such person to view his body and who shall state the manner or cause of death according to the best of his knowledge and belief but who shall not be concerned in examining the body after removal and in case of such removal such certificate shall be delivered together with the body to the party receiving the same for anatomical examination.

28. It shall be lawful for any legally qualified medical practitioner or any professor teacher or student of anatomy medicine or surgery having a license from the Governor in Council as aforesaid to receive or possess for anatomical examination or to examine anatomically the body of any person deceased, if permitted or directed so to do by a person who had at the time of giving such permission or direction lawful possession of the body and who had power in pursuance of the provisions of this Part of this Act to permit or cause the body to be so examined and provided such certificate as aforesaid were delivered by such person together with the body.

29. Every person so receiving a body for anatomical examination after removal shall demand and receive together with the body a certificate as aforesaid and shall within twenty-four hours next after such removal transmit to the inspector of the district such certificate and also a return stating at what day and hour and from whom the body was received the date and the place of death the sex and (as far as is known at the time) the christian and surname age and last place of abode

The body not to be removed from the place where such person may have died without a certificate.

Who may receive bodies for anatomical examination.

Such persons to receive with the body a certificate as aforesaid which shall be transmitted to the inspector.

abode of such person or if no such inspector have been appointed to the legally qualified medical practitioner or stipendiary magistrate residing nearest to the place to which the body is removed and shall enter or cause to be entered the aforesaid particulars relating thereto and a copy of the certificate he received therewith in a book to be kept by him for that purpose and shall produce such book whenever required so to do by any inspector so appointed as aforesaid.

Notice to be given to Chief Secretary of places where anatomy is about to be practised.

30. It shall not be lawful for any person to carry on or teach anatomy at any place or at any place to receive or possess for anatomical examination or examine anatomically any deceased person's body after removal of the same, unless such person or the owner or occupier of such place or some person by this Part authorised to examine bodies anatomically shall at least one week before the first receipt or possession of a body for such purpose at such place have given notice to the Chief Secretary for the time being of Victoria of the place where it is intended to practise anatomy.

How bodies are to be removed for examination Provision for interment.

31. Every such body so removed as aforesaid for the purpose of examination shall before such removal be placed in a decent coffin or shell and be removed therein and the person removing the same or causing the same to be removed as aforesaid shall make provision that such body after undergoing anatomical examination be decently interred in consecrated ground or in some public burial ground in use for persons of that religious persuasion to which the person whose body was so removed belonged and that a certificate of the interment of such body shall be transmitted to the inspector of the district within six weeks after the day on which such body was received as aforesaid.

Persons duly authorized not to be liable to punishment for having in their possession human bodies.

32. No legally qualified medical practitioner nor any graduate or licentiate in medicine nor any professor teacher or student of anatomy medicine or surgery having a license from the Governor in Council as aforesaid shall be liable to any prosecution penalty forfeiture or punishment for receiving or having in his possession for anatomical examination or for examining anatomically any dead human body according to the provisions of this Part of this Act.

Post mortem examination not prohibited.

33. Nothing in this Part contained shall be construed to extend to or to prohibit any *post mortem* examination of any human body required or directed to be made by any competent legal authority.

Limitations of actions.

34. If any action or suit shall be commenced or brought against any person for anything done in pursuance of this Part of this Act the same shall be commenced within six months next after the cause of action accrued and the defendant in every such action or suit may plead the matter specially or may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon.

Offences against this Part.

35. Any person offending against the provisions of this Part of this Act shall be deemed and taken to be guilty of a misdemeanor and being duly convicted shall be punished by imprisonment for a term not exceeding three months or by a fine not exceeding fifty pounds at the discretion of the court before which he shall be tried.

SCHEDULES

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SCHEDULE I.

Date of Act.	Title of Act.	Extent of Repeal.	Section 2.
1 Vict. No. 3 ...	"An Act to provide for the attendance of Medical Witnesses at coroners' inquests and enquiries held by justices of the peace"	The whole.	
2 Vict. No. 22 ...	"An Act to define the qualifications of Medical Witnesses at coroners' inquests and enquiries held before justices of the peace in the colony of New South Wales"	The whole.	
8 Vict. No. 8 ...	"An Act to amend the Act passed in the second year of the reign of Her present Majesty Queen Victoria intituled 'An Act to define the qualifications of Medical Witnesses at coroners' inquests and enquiries held before justices of the peace in the colony of New Wales'"	The whole.	
9 Vict. No. 12 ...	"An Act to amend 'An Act to define the qualifications of Medical Witnesses at coroners' inquests and enquiries held before justices of the peace in the colony of New South Wales'"	The whole.	
17 Vict. No. 14...	"An Act to extend the provisions of the Acts relating to legally qualified Medical Practitioners"	The whole.	
24 Vict. No. 118	"An Act to amend an Act intituled 'An Act to extend the provisions of the Acts relating to legally qualified Medical Practitioners'"	The whole.	
25 Vict. No. 156	"An Act for regulating Schools of Anatomy"	The whole.	
25 Vict. No. 158	"An Act to amend the laws relating to the registration of legally qualified Medical Practitioners"	The whole.	

SCHEDULE II.

Name.	Residence.	Qualification.	Section 5.
A. B. ...	Melbourne ...	Fellow of the Royal College of Physicians. Member of the Royal College of Surgeons Edinburgh. Licentiate of the Society of Apothecaries London.	
C. D. ...	Ballarat ...	Member of the Royal College of Surgeons London.	
E. F. ...	Castlemaine ...	Licentiate of the Faculty of Physicians and Surgeons of Glasgow.	
G. H. ...	Geelong ...	Licentiate of the Society of Apothecaries London.	

A. B. President of Medical Board.
C. D. Member of Medical Board.
E. F. Do do.

C

SCHEDULE III.

SCHEDULE III.

Section 9.

1. Fellow, Member, Licentiate, or Extra-Licentiate of the Royal College of Physicians of London.
2. Fellow, Member, or Licentiate of the Royal College of Physicians of Edinburgh.
3. Fellow or Licentiate of the King and Queen's College of Physicians of Ireland.
4. Fellow or Member of the Royal College of Surgeons of England.
5. Fellow or Licentiate of the Royal College of Surgeons of Edinburgh.
6. Fellow or Licentiate of the Faculty of Physicians and Surgeons of Glasgow.
7. Fellow or Licentiate of the Royal College of Surgeons in Ireland.
8. Licentiate of the Society of Apothecaries, London.
9. Licentiate of the Apothecaries' Hall, Dublin.
10. Doctor or Bachelor of Medicine, or Master in Surgery of some British or Colonial University.
11. Any legally qualified Practitioner registered in the United Kingdom under the Acts of the Parliament of the United Kingdom of Great Britain and Ireland passed respectively in the Twenty-first and Twenty-second year of Her Majesty intituled "*An Act to regulate the Qualifications of Practitioners in Medicine and Surgery,*" and in the Twenty-second year of Her Majesty intituled "*An Act to amend the Medical Act (1858).*"
12. Medical Officers duly appointed and confirmed of Her Majesty's Sea or Land Service.
13. Any person who shall prove to the satisfaction of the board that he has passed through a regular course of medical study of not less than three years' duration in a British or foreign school of medicine, and has received after due examination from some British or foreign university college or body, duly recognised for that purpose in the country to which such university college or other body may belong, a medical diploma or degree certifying to his ability to practise medicine or surgery as the case may be.

MELBOURNE:

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