

## VICTORIA



ANNO VICESIMO SEPTIMO

## ELIZABETHÆ SECUNDÆ REGINÆ

No. 9147.

An Act to re-enact and amend the Law relating to the  
Registration of Physiotherapists and for other  
purposes.

[30th May, 1978.]

**BE** it enacted by the Queen's Most Excellent Majesty by and  
with the advice and consent of the Legislative Council and the  
Legislative Assembly of Victoria in this present Parliament  
assembled and by the authority of the same as follows (that is  
to say) :—

## PART I.—PRELIMINARY.

- Short title** 1. (1) This Act may be cited as the *Physiotherapists Act* 1978.
- Commence-  
ment.** (2) This Act shall come into operation on a day to be fixed by  
proclamation of the Governor in Council published in the  
*Government Gazette*.
- Division into  
Parts.** (3) This Act is divided into Parts as follows :—  
Part I.—Preliminary ss. 1–3.  
Part II.—Physiotherapists Registration Board ss. 4–10.  
Part III.—Registration of Physiotherapists ss. 11–20.  
Part IV.—General ss. 21–28.
- Repeal of  
Nos. 6307 and  
7566.** 2. (1) The *Masseurs Act* 1958 and the *Masseurs (Amendment)  
Act* 1967 are hereby repealed.

(2) Except

(2) Except as in this Act expressly or by necessary implication provided—

- (a) all persons things and circumstances appointed or created by or under the repealed Acts or existing or continuing under any of the repealed Acts immediately before the commencement of this Act shall under and subject to this Act continue to have the same status operation and effect as they respectively would have had if those Acts had not been so repealed ;
- (b) in particular and without affecting the generality of paragraph (a) the repeal shall not disturb the continuity of status operation or effect of any regulation appointment registration election certificate proceeding appeal liability or right made effected issued granted given presented passed fixed accrued incurred or acquired or existing or continuing by or under any of those Acts before the commencement of this Act.

3. In this Act, unless inconsistent with the context or subject-matter—

Interpretation No. 6307 s. 3.

“ Board ” means the Physiotherapists Registration Board of Victoria established under this Act.

“ Board ”

“ Medical practitioner ” means a person who is registered as a legally qualified medical practitioner under the *Medical Practitioners Act 1970*.

“ Medical practitioner ”

“ Prescribed ” means prescribed by this Act or the regulations.

“ Prescribed.”

“ Register ” means the register of physiotherapists kept under this Act.

“ Register.”

“ Registered physiotherapist ” means a person who is registered under section 12 or section 13.

“ Registered physiotherapist.”

PART II.—PHYSIOTHERAPISTS REGISTRATION BOARD.

4. For the purposes of this Act, there shall be a Board to be called the Physiotherapists Registration Board of Victoria.

Physiotherapists Registration Board. No. 6307 s. 4.

5. (1) The Board shall consist of six members appointed by the Governor in Council of whom—

Membership of Board. No. 6307. s. 4.

(a) two shall be medical practitioners ; and

(b) four shall be persons registered under section 12

(2) A member of the Board holds office for such period, not exceeding three years as is specified in the instrument of his appointment but is eligible for re-appointment.

(3) The Governor in Council may at any time remove a member of the Board from office.

(4) A member

(4) A member of the Board is not, in respect of his office as a member, subject to the provisions of the *Public Service Act 1974*.

Members entitled to receive fees, expenses and allowances.

(5) A member of the Board is entitled to receive such fees, expenses and allowances as are prescribed.

Chairman and meetings.  
No. 6307 s. 4.

6. (1) The members of the Board shall elect one of their number to be chairman of the Board.

(2) The chairman shall hold office for one year but shall be eligible for re-election.

(3) At a meeting of the Board, the chairman or in his absence a member elected by the members present to act as chairman of the meeting shall preside and in the case of an equality of votes shall have a second or casting vote.

(4) If at an election of a chairman there is an equality of votes it shall be decided by lot which of the members obtaining an equal number of votes shall be the chairman.

(5) A question arising at a meeting of the Board shall not be decided unless there are at least four members present.

(6) An act or decision of the Board is not invalid by reason only of a vacancy or vacancies in the office of a member or defect or irregularity in the appointment of a member.

(7) Subject to this Act, the procedure of the Board is in its discretion.

Termination and vacancies.  
No. 6307 s. 4.

7. (1) If a member of the Board is absent without permission of the Board from four consecutive meetings of the Board or becomes bankrupt or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with his creditors or makes an assignment of his remuneration for their benefit or is convicted of an indictable offence or is a patient within the meaning of the *Mental Health Act 1959* or is removed or resigns or dies his office becomes vacant and the vacancy shall be deemed to be an extraordinary vacancy.

(2) On the occurrence of an extraordinary vacancy on the Board the Governor in Council may appoint a person to fill the vacancy.

(3) A person appointed to fill an extraordinary vacancy shall hold office only for the remainder of the term for which his predecessor in office was appointed.

Transitional.  
Members of Board.

8. The members of the Masseurs Registration Board of Victoria holding office immediately before the commencement of this Act shall for the respective terms for which they were appointed be deemed to be members of the Board as if appointed under this Act.

Powers and duties of Board.  
No. 6307 s. 5.

9. Subject to this Act, the Board may—

(a) conduct, arrange and hold examinations in physiotherapy ;

(b) appoint

- (b) appoint examiners in physiotherapy ;
- (c) approve examinations in physiotherapy ;
- (d) approve degrees, diplomas and other qualifications for the purposes of qualification of persons for registration under this Act ;
- (e) issue or cancel certificates of registration ;
- (f) take proceedings for offences against this Act or the regulations ; and
- (g) generally do any other act or thing or exercise any other power or perform any other duty necessary for carrying the provisions of this Act into effect.

**10. The Board—**

- (a) may appoint a registrar and such other persons as are necessary for the purposes of the Board ;
- (b) may pay to a person so appointed such salary or remuneration as the Board thinks fit ; and
- (c) may remove a person so appointed.

Registrar  
and staff of  
Board.  
No. 6307 s. 5.

**PART III.—REGISTRATION OF PHYSIOTHERAPISTS.**

**11. (1)** Subject to sub-section (2) a person who is not registered under this Act is not entitled to recover in any court any fee or charge for the performance of physiotherapy or for any advice relating to physiotherapy.

Unregistered  
persons not  
entitled to  
recover fees in  
court.

(2) Sub-section (1) does not apply where the physiotherapy is performed or the advice is given—

- (a) by a medical practitioner ;
- (b) by a nurse under the instruction of a medical practitioner or registered physiotherapist ;
- (c) by a chiropodist in the course of the practice of chiropody ;
- (d) in relation to face massage or scalp massage for cosmetic purposes only ;
- (e) in relation to abnormalities of the teeth, eyes or speech ; or
- (f) by a person under the instruction of a registered physiotherapist, in the course of undergoing a course of study in physiotherapy.

**12. (1)** A person may apply to the Board to be registered under this section.

Application for  
registration.  
No. 6307 s. 7.

(2) Subject to sub-section (3), the Board shall register an applicant where it is satisfied that the applicant—

- (a) holds a prescribed degree, diploma or other qualification ;
- (b) is of good character ; and
- (c) has paid the prescribed fee for registration.

(3) The

(3) The Board may refuse to register an applicant who is otherwise qualified to be registered—

- (a) if the applicant has been refused registration as a physiotherapist in a place outside Victoria ; or
- (b) where the applicant was qualified to be registered five years before the date of the application and, during those five years, has not been registered under this Act, and has not been registered as a physiotherapist in a place outside Victoria, if the Board is not satisfied that the applicant is professionally competent to be registered as a physiotherapist in Victoria.

Temporary  
registration.

13. (1) A person—

- (a) who is not qualified to be registered under section 12 by reason only that the degree, diploma or other qualification which he holds is not a prescribed degree, diploma or other qualification ; or
- (b) who is refused registration under section 12 (3) —

may apply to the Board for temporary registration.

(2) The Board may, where it is satisfied that an applicant under sub-section (1)—

- (a) holds a degree, diploma or other qualification in physiotherapy granted in a place outside Victoria and would, if under the supervision of a registered physiotherapist, be competent to practise physiotherapy as a registered physiotherapist ;
- (b) is of good character ; and
- (c) has paid the prescribed fee for registration—

grant to the applicant temporary registration under this section.

(3) The governing body of a teaching or research institution may apply to the Board on behalf of a person who—

- (a) holds a degree, diploma or other qualification in physiotherapy granted in a place outside Victoria ; and
- (b) is in, or proposes to come to, Victoria for purposes connected with the teaching of or research or study in physiotherapy—

and the Board may grant temporary registration under this section to that person.

(4) The temporary registration of a person under this section may be made subject to such limitations, restrictions and conditions as the Board determines.

(5) A person who is registered under this Act under a grant of temporary registration shall be deemed not to be so registered

in

in respect of any act or thing done by him in carrying on the practice of physiotherapy in breach of a restriction limitation or condition to which his temporary registration is subject.

(6) In this section "teaching or research institution" means any university, college, school, research institute or professional association whose objects include the promotion of research into or dissemination of knowledge of the theory and practice of physiotherapy and which is approved by the Board for the purposes of this section.

14. (1) A person registered under section 12 or section 13 shall pay to the Board the prescribed renewal fee in respect of each year for which he wishes to continue to be registered. Annual renewal of registration. No. 6307 s. 10.

(2) Where a person registered under section 12 or section 13 has not, before 1st February in any year, paid the prescribed renewal fee in respect of the year commencing on the preceding 1st January, the Board shall remove the name of that person from the register.

(3) Where a person whose name has been removed from the register under sub-section (2) applies to the Board, before the expiration of five years after the removal of his name, for restoration of his name to the register and pays to the Board the prescribed renewal fee in respect of the year commencing on 1st January for which the application is made, together with the prescribed restoration fee, the Board shall, if he is otherwise entitled to be registered, register the person.

(4) A person whose name the Board is required to remove from the register under sub-section (2) but whose name has not been so removed, continues, upon payment of the prescribed renewal fee and the prescribed restoration fee, to be registered.

15. (1) The Board shall keep a register of physiotherapists to be called the Register of Physiotherapists which shall be in the prescribed form and shall contain the prescribed particulars of persons registered under section 12 or section 13. Register of Physiotherapists. No. 6307 s. 6.

(2) A person registered under the *Masseurs Act* 1958 immediately before the commencement of this Act shall be deemed to be registered under this Act.

(3) A certificate signed by the Registrar stating that a person is or is not or was or was not registered under section 12 or section 13 shall be *prima facie* evidence of the facts stated in the certificate.

16. (1) The Board shall, in the month of July in each year in which the Minister so directs, cause a copy of the register as at the preceding 30th June to be published in the *Government Gazette*. Publication of register. No. 6307 s. 6.

(2) In each year in which a copy of the register is not published under sub-section (1), the Board shall, in the month of July, cause to be published in the *Government Gazette* a supplementary list showing all alterations, revisions and removals made in the register during the period of 12 months ending on the preceding 30th June.

(3) Each

(3) Each supplementary list published under sub-section (2) shall be deemed to be part of the last published copy of the register and that copy shall be read and construed as subject to that list.

(4) A copy of the register or of a supplementary list published under this section shall be *prima facie* evidence of the facts stated in the register or list so published and the absence of the name of a person from such a register or list shall be *prima facie* evidence that the person is not or was not registered under this Act as the case may be.

Cancellation or suspension of registration.  
No. 6307 s. 13.

17. (1) Subject to this section, the Board may, by order, cancel or suspend the registration of a person—

- (a) whose registration was obtained by fraud or misrepresentation ;
- (b) who in the opinion of the Board is not of good character ;  
or
- (c) who has been convicted of an offence against this Act or a corresponding previous enactment.

(2) The Board shall not cancel or suspend the registration of a person under sub-section (1) unless—

- (a) it has sent to the person by registered post notice in writing of the intention to cancel or suspend the registration and the grounds upon which it is based ;  
and
- (b) it has held an inquiry into the matter and afforded the person an opportunity to give an explanation personally or in writing.

(3) The suspension of the registration of a person under this section has effect for such period as the Board determines when suspending the registration but the Board may at any time revoke the suspension.

(4) Where the registration of a person is suspended—

- (a) the suspension shall be recorded in the register ; and
- (b) the person shall, during the period of the suspension, be deemed to be an unregistered person for the purposes of this Act.

Powers of Board in conducting investigations.  
No. 6307 s. 14.

18. The Board shall, for the purpose of conducting an inquiry authorized to be made under section 17, have all the powers conferred by sections 14, 15, 16, 20 and 20A of the *Evidence Act* 1958 upon a Board appointed by the Governor in Council.

Appeal.  
No. 6307 s. 13 (4).

19. (1) A person who feels aggrieved by a decision of the Board refusing to register him under section 12 or section 13 or cancelling or suspending his registration under either of those sections may appeal to a judge of the Supreme Court in Chambers or to a judge of the County Court in Chambers within three months after receiving notification of the refusal cancellation or suspension or  
within

within such extended time as a judge of the Supreme Court in Chambers or a judge of the County Court in Chambers may on the application of that person made either before or after the expiration of that period of three months, allow.

(2) A judge to whom an appeal is made under this section shall entertain, inquire into and decide upon the appeal and for that purpose may do all such matters and things relating to the appeal and in the same manner and to the same extent as he is empowered to do in the exercise of his ordinary jurisdiction and his decision shall be final and conclusive.

20. (1) A person whose registration has been cancelled by order of the Board shall, within 14 days after receiving notification of the order, surrender to the Board all certificates issued to him under this Act or any corresponding previous enactment.

Return of  
certificate.  
No. 6307 s. 15.

(2) A person who, without reasonable excuse, fails to comply with sub-section (1) shall be liable to a penalty not exceeding \$500.

#### PART IV.—GENERAL.

21. (1) Fees and penalties paid or recovered under this Act shall be paid to the Board.

Financial.  
No. 6307 s. 10.

(2) The Board shall apply fees and penalties paid to it to the general expenses of the Board under this Act (including the payment of fees, expenses and allowances to members of the Board).

(3) The Board shall, as soon as practicable after 31st December in each year publish a financial statement, audited by a registered company auditor within the meaning of the *Companies Act 1961*, made up to that date showing the receipts expenditure and liabilities of the Board during the year ending on that date.

22. The Board shall, in each year, submit to the Minister an annual report of its proceedings and a copy of the financial statement under section 21. The Minister shall cause such report to be laid before both Houses of Parliament if Parliament is then sitting or if Parliament is not then sitting within fourteen days after the next assembling of Parliament.

Annual report.  
No. 6307  
s. 10 (b).

23. (1) Section 28 (1) of the *Medical Practitioners Act 1970* does not apply in respect of the recovery of charges by a registered physiotherapist in relation to the practice of physiotherapy.

Certain  
provisions of  
*Medical  
Practitioners  
Act 1970* not  
to apply.

(2) Section 28 (4) of the *Medical Practitioners Act 1970* does not apply in respect of the use of the title of physiotherapist by a registered physiotherapist.

24. (1) A person who is not registered under this Act shall not assume take or use (either alone or in combination with any other word or letters) the name or title of "physiotherapist";  
"physiotherapeutist"

Offences by  
unregistered  
persons.



“physiotherapist”, “physical therapist”, “physical therapist”, “electrotherapist”, “manipulative therapist” or “manual therapist” or any other name title or description implying or that may reasonably be understood to imply that the person is registered under this Act.

Penalty : \$1,000.

(2) Subject to sub-section (3) a person who is not registered under this Act shall not use or advertise or hold out in any way that he is prepared to use any appliance specified in Part A of the Schedule or any method specified in Part B of the Schedule for the purpose of assessing, curing or alleviating a physical disability or abnormality.

Penalty : \$1,000.

(3) Sub-section (2) does not apply where the appliance or method is used or to be used by—

- (a) a medical practitioner ;
- (b) a registered dentist ;
- (c) a nurse acting under instructions from a medical practitioner or a registered physiotherapist ;
- (d) a physiotherapy aide working under the direction of a registered physiotherapist ;
- (e) a person undergoing training as a physiotherapist in the course of such training ;
- (f) a registered chiropractor and osteopath.

(4) The Governor in Council may by proclamation published in the *Government Gazette* amend the Schedule by adding to or removing from the said Schedule any appliance or method.

Penalty for  
fraud &c.  
No. 6307 s. 12

25. A person shall not—

- (a) procure or attempt to procure registration under this Act by making or causing to be made or produced a false or fraudulent declaration certificate or representation either in writing or otherwise ; or
- (b) wilfully make or cause to be made any falsification in or in any manner relating to the register.

Penalty : \$1,000 or imprisonment for 12 months or both.

Penalty for  
failing to  
comply with  
orders of  
Board or with  
regulations.  
No 6307 s 16.

26. (1) Except as otherwise expressly provided in this Act, a registered physiotherapist who—

- (a) fails, neglects or refuses to comply with a lawful order or direction of the Board made under this Act ; or
- (b) contravenes or fails to comply with a regulation—

is guilty of an offence.

Penalty : \$400.

(2) A person

(2) A person who contravenes a provision of this Act for which no other penalty is provided is liable to a penalty not exceeding \$500. General penalty.

27. Proceedings under this Act may be taken by a person authorized by the Board either generally or in a particular case and in proceedings proof shall not, in the absence of evidence to the contrary, be required of the giving of that authority by the Board. Proceedings.  
No. 6307 s. 17.

28. The Governor in Council may, on the recommendation of the Board, make regulations for or with respect to— Regulations.  
No. 6307 s. 18.

- (a) prescribing degrees, diplomas and other qualifications, whether conferred or obtained in Victoria or elsewhere, for the purposes of qualification of persons for registration under this Act ;
- (b) regulating and supervising the conduct of examinations, prescribing the standard of examinations and prescribing the remuneration of examiners ;
- (c) prescribing fees, not exceeding \$100 to be paid for examinations ;
- (d) prescribing fees, not exceeding \$50 to be paid for registration ;
- (e) prescribing fees, not exceeding \$60 for renewal of registration ;
- (f) prescribing fees, not exceeding \$20 for restoration of a name to the register ;
- (g) prescribing fees, not exceeding \$10 for the issue of certificates under this Act (other than original certificates of registration) ;
- (h) prescribing particulars to be included in notices given under this Act ;
- (i) prescribing the form of the register and the entries to be made in the register and the particulars to be contained in the register ; and
- (j) generally prescribing any matters or things authorized or required to be prescribed under this Act.

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## SCHEDULE.

S. 24 (2).

### *Part A—Appliances*

Shortwave diathermy machine.  
Microwave diathermy machine.  
Ultrasonic machine.  
Laser Machine.  
Ultra Violet Light Machine.  
Interferential machine.

### *Part B—Methods.*

Reflex Inhibitory Patterns.  
Facilitation of Peripheral Receptors.  
Postural Drainage.