



NEW ZEALAND

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1950, No. 50

AN ACT to Consolidate and Amend Certain Enactments of the General Assembly Relating to the Registration and Control of Medical Practitioners. Title.

[17th November, 1950

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Medical Practitioners Act, 1950. Short Title.

2. In this Act, unless the context otherwise requires,— Interpretation.

“ Annual practising certificate ” means a certificate under section fifty-four of this Act: Medical Practitioners Act, 1914, s. 2

“ Association ” means the New Zealand Branch of the British Medical Association: (Reprint of Statutes, Vol. V, p. 669); 1949, No. 37, s. 2

“ Commonwealth ” means the British Commonwealth of Nations; and includes every territory for whose international relations the Government of any country of the Commonwealth is responsible:

- “ Conditional registration ” means conditional registration under this Act; and “ conditionally registered ” has a corresponding meaning:
- “ Disciplinary Committee ” means the Medical Practitioners Disciplinary Committee established under this Act:
- “ Division ” means a Division of the Association duly formed in accordance with the by-laws of the Association:
- “ Divisional Disciplinary Committee ” means a Divisional Medical Practitioners Disciplinary Committee appointed under this Act:
- “ Medical Council ” or “ Council ” means the Medical Council established under this Act:
- “ Minister ” means the Minister of Health:
- “ Provisional certificate ” means a provisional certificate issued under section twenty-five of this Act:
- “ Registered medical practitioner ” means a person registered as a medical practitioner under this Act; and “ registered as a medical practitioner ” has a corresponding meaning.

PART I

MEDICAL COUNCIL

3. (1) There shall be a Council (to be known as the Medical Council) appointed in accordance with this section to exercise the powers and functions hereinafter conferred on it.

(2) The Council shall consist of—

- (a) The Director-General of Health under the Health Act, 1920:
- (b) The Dean of the Faculty of Medicine in the University of Otago:
- (c) Five registered medical practitioners to be appointed by the Governor-General, of whom one shall be appointed on the recommendation of the New Zealand Branch of the British Medical Association.

(3) The members of the Council, other than those who are members by virtue of their office, shall be appointed by the Governor-General for a period of three

Constitution of
Medical
Council.

1914, No. 74,
s. 3; 1924,
No. 28, s. 3

See Reprint
of Statutes,
Vol. VI, p. 1061

years, save that any such member may from time to time be reappointed, or may be at any time removed from office by the Governor-General for such cause as he thinks sufficient, or may at any time resign his office by writing addressed to the Secretary to the Council.

(4) If any appointed member of the Council dies, resigns, or is removed from office, the vacancy so created shall be filled in the manner in which the appointment to the vacant office was originally made. Every person so appointed shall be appointed for the residue of the term for which his predecessor was appointed.

(5) Unless he sooner vacates his office as provided in the last preceding subsection, every appointed member of the Council shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

(6) The powers of the Council shall not be affected by any vacancy in the membership thereof.

4. (1) The Council, at its first meeting held after the first day of January in the year nineteen hundred and fifty-one and in each year thereafter, shall appoint one of its members to be the Chairman of the Council. Any such member may from time to time be reappointed as Chairman of the Council.

Chairman of
Council.
1914, No. 74,
s. 4

(2) The Chairman shall preside at all meetings of the Council at which he is present.

(3) The Chairman appointed in each year shall hold office until his successor is appointed, or for such lesser period as he remains a member of the Council.

(4) If the Chairman ceases to be a member of the Council before the expiration of the period for which he has been appointed, the Council shall appoint some other member in his stead to be Chairman for the residue of the said period.

(5) If at any meeting of the Council the Chairman for the time being is not present, or there is no Chairman of the Council, the Council shall appoint some member present to act as Chairman in respect of that meeting, and the person so appointed shall have and may exercise all the powers and functions of the Chairman for the purposes of that meeting.

(6) The Chairman of the Council shall have power to act in all matters on behalf of the Council when the Council is not meeting:

Provided that when he acts on behalf of the Council in a matter which by this Act requires a decision of the Council he shall first consult at least one other member of the Council and he shall report to the next meeting of the Council the action he has taken.

Secretary to
the Medical
Council.
1949, No. 37,
s. 15

5. There shall from time to time be appointed as an officer of the Public Service a Secretary to the Medical Council.

Meetings of
Council.
1914, No. 74,
ss. 5, 6.

6. (1) Meetings of the Council shall be held at such times and places as the Chairman, or the Secretary to the Council on the direction of the Chairman or of the Director-General of Health, may from time to time appoint.

(2) Notice of the time and place of every such meeting, signed by the Chairman or by the Secretary to the Council, shall be sent to every member of the Council at least three clear days before the time appointed for that meeting.

(3) At any meeting of the Council four members shall form a quorum.

(4) Every question before the Council shall be determined by a majority of the votes of the members present at the meeting of the Council.

(5) The Chairman shall have a deliberative vote, and, in the case of an equality of votes, shall also have a casting vote.

Procedure of
Council.
Ibid., s. 7

7. (1) The Governor-General may from time to time, by Order in Council made on the advice of the Minister given upon the recommendation of the Council, make rules for regulating the procedure of the Council.

(2) In the absence of any such rules, or so far as the rules do not extend, the Council may regulate its procedure as it thinks fit.

Subcommittees
of Council.

8. The Council may appoint subcommittees consisting of two or more members of the Council and may delegate to any such subcommittee any of the functions or powers of the Council under this Act:

Provided that the Council shall not delegate its power to inquire into a charge of grave impropriety or infamous conduct in a professional respect which has been made against a registered medical practitioner or a person who is conditionally registered under this Act.

PART II

REGISTRATION

Conditional Registration

9. Except as provided in section sixteen of this Act, every person shall be entitled to be conditionally registered under this Act who satisfies the Council—

Qualifications
for conditional
registration.
1914, No. 74,
s. 8; 1924,
No. 28, s. 4

- (a) That he is a graduate in medicine and surgery of the University of New Zealand; and that, if he has been admitted *ad eundem* after the passing of this Act at any stage of the course prescribed for admission to the degrees by virtue of which he is entitled to conditional registration, he has been so admitted with the approval of the Medical Council;
- (b) That he is registered in the register kept in accordance with the provisions of the Acts regulating the registration of medical practitioners in the United Kingdom or the Republic of Ireland:

Provided that a person who is registered in the United Kingdom or the Republic of Ireland by virtue of a degree, diploma, or other qualification granted otherwise than by a University or Institution in the United Kingdom or the Republic of Ireland shall not be entitled as of right to registration in New Zealand; but the Council shall have the same power to refuse approval of any such degree, diploma, or other qualification, or to require the person to attend a course in medicine and surgery and to pass examinations, as it has in the case of holders of degrees, diplomas, or other qualifications applying for registration on the grounds set out in paragraph (c) of this subsection; or

- (c) That he is the holder of a degree, diploma, or other qualification approved by the Council and granted by any University or Institution, other than the University of New Zealand or any University or Institution in the United Kingdom or the Republic of Ireland, after a course of not less than six years' study of the subjects

pertaining to medical and surgical degrees and diplomas, and is registered in the Medical Register kept in the country in which the degree, diploma, or other qualification is granted:

Provided that—

- (i) Where the Council considers that there is good and sufficient reason for the person not being registered in the manner specified in this paragraph it may dispense with the requirement that the person be so registered:
- (ii) The Council may refuse to approve any degree, diploma, or other qualification for the purposes of this paragraph unless it appears to the Council that the graduates in medicine and surgery of the University of New Zealand are, by virtue of their graduation and without further examination, entitled to be registered as medical practitioners and to practise medicine and surgery in the country in which is situated the University or other Institution by which that degree, diploma, or other qualification has been granted:
- (iii) The Council may, if it thinks fit, require that any holder of such a degree, diploma, or other qualification, before being conditionally registered, shall attend a course in medicine and surgery and pass examinations therein, which course and examinations shall be approved by the Council and the Senate of the University of New Zealand and shall be conducted by the Senate of the University of New Zealand.

10. (1) On and after a date to be fixed by resolution of the Medical Council and notified in the *Gazette* it shall be an offence against this section for any person who is for the time being conditionally registered under this Act to practise medicine or surgery otherwise than in an institution or hospital which, on the recommendation of the Medical Council, has been approved by the Minister by notice published in the *Gazette*.

Persons conditionally registered restricted in the practice of medicine.

(2) Any such person shall be deemed for all purposes to be a registered medical practitioner while he is acting in any such capacity, but not otherwise.

(3) Every person who commits an offence against this section shall be liable on summary conviction to a fine not exceeding one hundred pounds.

11. (1) The Council may cancel the conditional registration of any person where it considers that he is not a fit person to be conditionally registered by reason of any fact to which section sixteen of this Act applies.

Cancellation of conditional registration. 1914, No. 74, s. 8 (2)

(2) The Council shall cancel the conditional registration of any person upon the registration of that person as a medical practitioner as hereinafter provided.

Registration as Medical Practitioners

12. Except as provided in section sixteen of this Act, every person shall be entitled to be registered as a medical practitioner under this Act who satisfies the Council—

Qualifications for registration as medical practitioners. *Ibid.*, s. 8

- (a) That he has been conditionally registered under this Act, and has thereafter had satisfactory experience of the practice of medicine and surgery in an institution or hospital approved by the Minister under section ten of this Act for the period prescribed by regulations made by the Governor-General on the advice of the Minister given on the recommendation of the Council; or
- (b) That he has been conditionally registered, or is eligible to be conditionally registered under this Act; and has had satisfactory experience of the practice of medicine and surgery outside New Zealand for a period, and in a capacity, comparable with that required under the last preceding paragraph; or

- (c) That he is eligible to be conditionally registered under this Act, and has practised medicine and surgery for a continuous period of not less than five years since the date on which he obtained his degree, diploma, or other qualification; and that his professional skill and ability are of a sufficiently high standard; or
- (d) That he is eligible to be conditionally registered under this Act, and is entitled to practise medicine and surgery in the country in which his degree, diploma, or other qualification was granted, without first having experience of the practice of medicine and surgery for a period, and in a capacity, comparable with that required under paragraph (a) of this subsection.

Applications for Registration

Applications
for registration.
1914, No. 74,
s. 12

13. (1) Every person who is entitled to be conditionally registered or registered as a medical practitioner under this Act may make application to the Secretary to the Council to be registered accordingly, and shall at the same time provide such evidence of his professional ability and of his personal character as may be required by the Council.

(2) Any such application may be made through any office of the Department of Health.

(3) On receipt by the Secretary of any such application and evidence he shall forthwith submit the same to the Council for its consideration.

Applications
to be
considered by
Council.
Ibid., s. 13

14. (1) At its first meeting after any such application has been submitted to it or as soon thereafter as practicable the Council shall consider that application, and shall give such directions to the Secretary to the Council in respect thereof as it thinks fit and as are hereinafter authorized.

(2) Before giving any such directions the Council may, if it thinks fit, examine on oath or otherwise the person making the application, or any person objecting thereto, or any other person, with respect to the application; and for the purposes of any such examination the Chairman for the purposes of any meeting of the Council may administer an oath to any person appearing before that meeting.

(3) The Council may also, if it thinks fit, require any person to verify by statutory declaration any statement made by him with respect to any application before the Council, or with respect to any objection to any such application.

15. (1) If the Council, after considering any such application as aforesaid, is of opinion that the applicant is entitled to be registered in the manner specified in the application, it shall so direct, and the Secretary to the Council shall thereupon register that person in that manner, and shall notify him accordingly.

Directions of Council to be observed.
1914, No. 74, s. 14

(2) If the Council, after considering any such application as aforesaid, is of opinion that the applicant is not entitled to be registered in the manner specified in the application, it shall direct accordingly, and the Secretary shall thereupon refuse to register that person in that manner, and shall notify him accordingly.

16. No person shall be entitled as of right to be conditionally registered or registered as a medical practitioner under this Act if he is not a fit person to be so registered by reason of the fact that—

Restrictions on registration.
Ibid., s. 8 (2)

(a) He has been at any time convicted of any offence punishable by imprisonment with hard labour for a term of two years or upwards; or

(b) He is otherwise not of good fame or character.

17. If any applicant who has been refused conditional registration or registration as a medical practitioner is dissatisfied with the direction of the Council, he may apply to the Supreme Court for an order to the Secretary to the Council that the applicant be so registered under this Act, and thereupon the Court may order that the person applying be so registered accordingly, or may make any such other order as it thinks fit, or may refuse to make any order in the matter, and in any such case the costs of the proceedings shall be in the discretion of the Court.

Appeal to Supreme Court from refusal to register applicant.
Ibid., s. 15

18. (1) Conditional registration or registration as a medical practitioner shall be effected by the entry in the register kept for the purpose by the Secretary to the Council of the following particulars:—

Mode of registration.
Ibid., s. 16

(a) The nature of the registration;

(b) The name of the person registered;

(c) Particulars as to the qualification or qualifications by virtue whereof he is registered;

(d) His postal address (including the name of the street and the number of the house, where possible);

(e) The date of registration; and

(f) Such other particulars as may be prescribed.

(2) The Secretary to the Council shall, on application in that behalf made to him at any time by a person so registered and on payment of the prescribed fee issue to that person a certificate of registration.

Amendment of Register

Notification of death of medical practitioner.

1914, No. 74,
s. 17

19. Every Registrar of Births and Deaths, on receiving notice of the death of any person who is registered as a medical practitioner or conditionally registered under this Act, shall forthwith transmit by post to the Secretary to the Council a notification in writing of that death, with the particulars of the date and place of death; and on the receipt of that notification the Secretary to the Council shall erase the name of the deceased person from the register.

Changes of address.

Ibid., s. 18

20. (1) Every person who is registered as a medical practitioner or conditionally registered, and who at any time changes his address as appearing in the register, shall, within one month thereafter, send to the Secretary to the Council a notice of his new address specifying where possible the name of the street and the number of the house, and the Secretary shall thereupon correct the entry in the register relating to that person accordingly.

(2) Every such person who fails to comply with the provisions of the last preceding subsection commits an offence and shall be liable on summary conviction to a fine not exceeding ten pounds.

(3) Any information in respect of any such offence may be laid at any time within three years from the date on which the person changed his address.

Name may be erased from register if registered person cannot be found, &c.

Ibid., s. 19

21. (1) The Secretary to the Council may at any time, and shall if the Council so directs, send to any person who is registered as a medical practitioner or conditionally registered, by registered letter addressed to him at his address as appearing in the register, an inquiry as to whether or not he desires to have his name retained in the register or has ceased to practise.

(2) If no reply is received to that letter within six months from the posting thereof, or if the letter is not delivered and is returned to the Secretary to the Council, the Secretary shall, if the Council so directs, remove from the register the name of the person to whom the letter was so sent.

(3) If the Council has reason to believe that any such person has died outside New Zealand, it may direct the Secretary to the Council to erase the name of that person from the register, and the Secretary shall erase that name accordingly.

(4) Any person whose name has been removed from the register in pursuance of this section may apply to the Secretary to the Council to have his name restored to the register, and on proof to the satisfaction of the Council that his name has been removed by mistake the Secretary shall, if so directed by the Council, restore to the register the name of that person:

Provided that, if any person is aggrieved by the refusal of the Council to restore his name to the register upon an application in that behalf, he shall have the same right of appeal as if his application had been an application for registration under section thirteen of this Act.

22. Every person who is registered as a medical practitioner or conditionally registered, and who obtains any medical or surgical degree or diploma other than that by virtue whereof he is registered, may apply to the Council to amend the register so far as it relates to the qualifications of that person; and on any such application the Council shall, if satisfied that the applicant is entitled to the degree or diploma in respect of which the application is made and that the degree or diploma in respect of which the application is made is of sufficient standing to warrant it being included in the register, direct the Secretary to the Council to amend the register accordingly, and the Secretary shall thereupon insert in the register particulars as to that degree or diploma.

Additional degrees and diplomas may be entered in register.

1914, No. 74, s. 20

23. (1) If any person has been registered as a medical practitioner or conditionally registered by reason of any false or fraudulent representation or declaration, made either orally or in writing, or if any person not entitled to be registered as aforesaid has been so registered, the Council shall cause the name of that

Amendment of register if person wrongfully registered or where particulars incorrect.

Ibid., s. 21

person to be erased from the register, and the fact of that erasure shall be notified by the Secretary to the Council in the *Gazette*.

(2) If any particulars appearing in the register in respect of the qualifications or address of any such person are proved to the satisfaction of the Council to be or are to the knowledge of the Council false or erroneous in any respect, the Council shall direct the Secretary to the Council to erase those particulars from the register, or otherwise to amend the register, and the Secretary shall thereupon amend the register accordingly.

(3) The provisions of the last preceding subsection shall apply notwithstanding the fact that at the time when the entry in the register was made the person was actually possessed of the qualifications particulars whereof appear in the register, or that at that time the entry was otherwise correct.

(4) Any person whose name has been erased from the register in pursuance of subsection one of this section, or any person the particulars of whose qualifications have been altered in pursuance of subsection two thereof, may by motion apply to the Supreme Court for an order to the Secretary to the Council for the restoration of his name to the register, or for the restoration to the register of any particulars as to his qualifications; and thereupon the Court may make such order in the matter as it thinks fit or may refuse to make any order, and in any such case the costs of the proceedings shall be in the discretion of the Court.

24. (1) If the Council is satisfied that the name of any person who has been registered as a medical practitioner or conditionally registered in New Zealand because he possessed the qualification mentioned in paragraph (b) of section nine of this Act has since been removed from any register of medical practitioners in the United Kingdom or elsewhere in the Commonwealth, or in the Republic of Ireland, or that the name of any person who has been conditionally registered or registered as a medical practitioner in New Zealand because he possessed the qualification mentioned in paragraph (c) of section nine of this Act has since been removed from any register of medical practitioners in the country in which his foreign degree, diploma, or qualification was granted, it may, with the consent in

Removal of
name from
New Zealand
Register after
removal from
British or
other register.
1924, No. 28,
s. 5

writing of the Attorney-General, by writing under the hand of the Chairman, direct the removal of his name from the register, and the name shall be removed accordingly.

(2) Notice of its intention to direct the removal of any name from the register pursuant to this section shall be given by the Council to the person affected, either personally or, if his address is unknown, by advertisement in such manner as the Council thinks sufficient, and his name shall not be removed from the register before the expiration of one month from the date of the notice.

(3) Any person whose name has been removed from the register by direction of the Council acting or purporting to act under the authority of this section may appeal to the Supreme Court, which may make such order in the matter as it thinks just, having regard to the merits of the case and to the public welfare.

Sundry Provisions Regarding Registration

25. (1) Notwithstanding anything to the contrary in this Act, the Secretary to the Council shall, if so directed by the Chairman of the Council, issue to a person who has applied for conditional registration or registration as a medical practitioner under this Act a provisional certificate which shall entitle that person, pending the consideration of his application by the Council, to practise as a medical practitioner to the extent to which he would be entitled if he had been registered in the manner specified in his application.

Provisional
practising
certificates.
1914, No. 74.
s. 32

(2) Every such certificate shall be endorsed in accordance with a direction issued by the Chairman of the Council to show whether it relates to conditional registration or to registration as a medical practitioner.

(3) Every such certificate shall, unless it has been cancelled or has lapsed, remain in force for the period stated therein, not exceeding three months, but any such certificate may be from time to time renewed.

(4) The holder of any such certificate shall, while the certificate remains in force, be deemed for all purposes to be conditionally registered or registered as a medical practitioner, as the case may be.

(5) The Secretary to the Council may cancel any provisional certificate at any time on the direction of the Council.

Resumption of practice by medical practitioner after discharge from mental hospital.

1924, No. 28, s. 7

See Reprint of Statutes, Vol V, p. 743

26. (1) If any person who is registered as a medical practitioner or conditionally registered is at the passing of this Act or hereafter becomes an inmate of an institution under the Mental Defectives Act, 1911, whether as a patient or as a voluntary boarder, he shall not thereafter resume the practice of the profession of a medical practitioner without a licence in that behalf granted by the Council.

(2) Any medical practitioner who has applied for a licence under this section, and to whom the Council has refused to grant a licence, shall have the same right of appeal to the Supreme Court as if a direction for the removal of his name from the register under section twenty-four of this Act had been given by the Council, and the Supreme Court may deal with the appeal as if it were an appeal from such a direction.

(3) Any person to whom this section relates who carries on the practice of the profession of a medical practitioner without having obtained a licence from the Council commits an offence, and shall be liable on summary conviction to a fine not exceeding one hundred pounds, and to a further fine not exceeding twenty pounds for every day during which the offence continues. Until the issue of a licence as herein provided, a person to whom this section relates shall be deemed not to be registered under this Act.

Offences as to registration. 1914, No. 74, s. 24

27. Every person who wilfully procures or attempts to procure himself to be registered under this Act by making or producing, or causing to be made or produced, any false or fraudulent representation or declaration, either orally or in writing, and any person who assists or attempts to assist him therein, commits an indictable offence, and shall be liable on conviction to imprisonment for a term not exceeding three years.

Register to be open to inspection. *Ibid.*, s. 30

28. The register kept by the Secretary to the Council under this Act shall at all reasonable times be open to inspection by the public at the office of the Director-General of Health in Wellington.

29. (1) The Secretary to the Council shall, as at the thirtieth day of June in the year nineteen hundred and fifty-one and in each year thereafter, prepare a copy of the register of persons who are registered as medical practitioners or conditionally registered under this Act, and shall certify it to be a true copy, and shall cause it to be published in the *Gazette* as soon as practicable after the thirtieth day of June in the year to which the copy relates.

Copy of
register to
be gazetted
annually.

1914, No. 74,
s. 31

(2) The copy of the register shall indicate with reference to every person whose name appears therein whether the person is the holder of an annual practising certificate for the then current year, and whether he is registered as a medical practitioner or conditionally registered.

(3) Any copy of the register published as aforesaid shall, until the contrary is shown, be sufficient evidence in all judicial proceedings of the contents of the register as at the date of the certificate referred to in subsection one of this section, and of everything stated or indicated in the copy.

(4) The absence of a person's name from any such copy of the register shall, until the contrary is shown, be sufficient evidence that that person was not registered in the register at the date of the said certificate:

Provided that, in the case of any person whose name does not appear in that copy, a certified copy under the hand of the Secretary to the Council of the entry of the name of that person in the register shall be evidence of the contents of the register with respect to that entry.

(5) Without restricting in any way the foregoing provisions of this section, a certificate of registration issued under section eighteen of this Act shall be evidence of the registration of the holder of that certificate as at the date thereof; and a certificate under the hand of the Secretary to the Council that any person is or is not conditionally registered or registered as a medical practitioner shall be evidence of that fact.

(6) The copy of the register shall be sufficiently proved by the production of a copy of the *Gazette* containing the same.

PART III

DISCIPLINE WITHIN THE MEDICAL PROFESSION

Disciplinary Committees

Constitution of
Medical
Practitioners
Disciplinary
Committee.
1949, No. 37,
s 3

30. (1) There shall be a Committee (to be known as the Medical Practitioners Disciplinary Committee) appointed in accordance with this section to exercise the powers and functions hereinafter conferred on it.

(2) The Disciplinary Committee shall consist of five registered medical practitioners, of whom—

(a) Four shall be appointed by the Council of the Association:

(b) One, not being a member of the Medical Council, shall be appointed by the Minister.

(3) The Disciplinary Committee may from time to time elect one of its members to be the Chairman of the Committee, and may from time to time fix the term of office of the Chairman. If at the time of any meeting of the Committee no such Chairman is in office or the Chairman is not present, the Committee may elect one of its members to be the Chairman at that meeting.

(4) The Council of the Association may from time to time remove from office any member of the Disciplinary Committee appointed by the Council, and may fill any vacancy caused by the resignation, removal, or death of any such member. The Minister may from time to time remove from office any member of the Disciplinary Committee appointed by the Minister and may fill any vacancy caused by the resignation, removal, or death of any such member.

(5) Three members of the Disciplinary Committee shall form a quorum.

(6) The General Secretary of the Association shall be the Secretary of the Disciplinary Committee.

Divisional
Disciplinary
Committees.
Ibid., s. 4

31. (1) In respect of any Division of the Association, or in respect of any group of Divisions, the Council of the Association, after consultation with the Division or Divisions concerned, may from time to time appoint a Divisional Medical Practitioners Disciplinary Committee to exercise the powers and functions hereinafter conferred on it and also to inquire into such accounts for medical services as may be referred to it under Part III of the Social Security Amendment Act, 1949.

(2) In the case of the Auckland, Wellington, Canterbury, and Otago Divisions, or of any group that includes any of those Divisions, the Divisional Disciplinary Committee shall consist of six registered medical practitioners, of whom three shall form a quorum. In every other case the Divisional Disciplinary Committee shall consist of three registered medical practitioners, of whom two shall form a quorum.

(3) A Divisional Disciplinary Committee may from time to time elect one of its members to be the Chairman of the Committee, and may from time to time fix the term of office of the Chairman. If at the time of any meeting of a Divisional Disciplinary Committee no such Chairman is in office or the Chairman is not present, the Committee may elect one of its members to be the Chairman at that meeting.

(4) The Council of the Association, after consultation with the Division concerned, may from time to time remove from office any member of a Divisional Disciplinary Committee, and may fill any vacancy caused by the resignation, removal, or death of any member.

(5) Each Divisional Disciplinary Committee shall appoint one of its members to act as the honorary Secretary of the Committee.

32. (1) The Disciplinary Committee shall have power, where a charge of professional misconduct has been made by any person against a person who is a registered medical practitioner or who is conditionally registered, to inquire into that charge:

Functions of
Disciplinary
Committee.
1949, No. 37,
s. 5

Provided that, where in the opinion of the Disciplinary Committee any such charge amounts to a charge of grave impropriety or infamous conduct in a professional respect, the Disciplinary Committee shall not deal with the charge but shall refer it to the Medical Council.

(2) If after inquiring into any charge the Disciplinary Committee is of opinion that the person against whom the charge is made has been guilty of professional misconduct, it may, if it thinks fit, but subject to the following provisions of this Act as to appeals, do one or more of the following things namely:—

- (a) Order him to pay a penalty not exceeding one hundred pounds to the Association:
- (b) Censure him:
- (c) Order him to pay any costs or expenses of and incidental to the inquiry.

Enforcement of contracts of service entered into by medical bursars.

33. (1) This section applies to any contract entered into by any person with the Crown (whether before or after the commencement of this Act), in relation to a bursary or scholarship granted to that person to assist him to undertake a course of medical training, whereby that person has undertaken to serve as a medical practitioner in the employment of a Hospital Board or of the Crown for any period.

(2) Any wilful breach by a medical practitioner of any such undertaking in a contract to which this section applies shall be deemed to be professional misconduct for the purposes of this Act.

(3) Where a medical practitioner has committed any such wilful breach, it is hereby declared, without limiting any other powers of the Minister or of the Disciplinary Committee, that the Minister may, on the recommendation of the Disciplinary Committee, by notice published in the *Gazette* and in such other manner (if any) as the Minister thinks proper, exclude the medical practitioner from participation in any scheme under Part III of the Social Security Act, 1938, whereby payments are made from the Social Security Fund, whether to the medical practitioner or to any other person, in respect of the provision of general medical services by medical practitioners.

(4) Any notice under the last preceding subsection may be at any time revoked by the Minister, and, if not sooner revoked, shall cease to operate on the expiration of six months, or such longer period as the medical practitioner has failed to serve in accordance with his contract, from the date of the first publication of the notice in the *Gazette*.

34. (1) The Disciplinary Committee shall inquire into such complaints against persons who are registered medical practitioners or who are conditionally registered, in connection with matters arising under Part III of the Social Security Act, 1938, as may be referred to it by the Minister, and it may, if it thinks fit, but subject to the following provisions of this Act as to appeals, make recommendations to the Minister regarding any such complaint, and order the person concerned to pay any costs or expenses of and incidental to the inquiry.

(2) If any such complaint involves professional misconduct on the part of any such person, that complaint may also be the basis of a charge of professional

1938, No. 7

Functions as to complaints under Social Security Act, 1938.

1949, No. 37, s. 6

1938, No. 7

misconduct against him, and the charge may be inquired into and dealt with by the Disciplinary Committee in accordance with the provisions of this Act.

35. The Disciplinary Committee shall not, with respect to any person who is a registered medical practitioner or who is conditionally registered, exercise any of the disciplinary functions conferred on it by this Act, or make any recommendation to the Minister under the last preceding section, without giving the person a reasonable opportunity of being heard in his own defence.

Right of
medical
practitioner
to be heard.
1949, No. 37,
s. 7

36. (1) If the Disciplinary Committee in any case thinks fit, it may authorize the appropriate Divisional Disciplinary Committee to conduct wholly or in part the hearing of any inquiry under this Act.

Preliminary
inquiries may
be made by
Divisional
Disciplinary
Committee.

Ibid., s. 8

(2) On the completion of the hearing before it, the Divisional Disciplinary Committee shall furnish to the Disciplinary Committee a full report of the hearing, and its recommendations thereon, and thereupon the Disciplinary Committee, whether or not the matter is further heard before it or before any other Divisional Disciplinary Committee, may make any order or may make any recommendation to the Minister in the matter of the inquiry that it could have made if the inquiry had been wholly heard by it.

37. After the hearing of any inquiry under this Act the Disciplinary Committee or Divisional Disciplinary Committee may make such order as to the payment of costs as it thinks fit, and in particular may order that costs be awarded to any person who is a registered medical practitioner or who is conditionally registered and in relation to whom an inquiry has been made, and that those costs be paid by the Association.

Disciplinary
Committee
may make order
as to costs.

Ibid., s. 9

38. (1) Any penalty or costs or expenses ordered by the Disciplinary Committee and any costs ordered by a Divisional Disciplinary Committee to be paid by a person who is a registered medical practitioner or who is conditionally registered shall be deemed to be a debt due from that person to the Association and shall be recoverable accordingly in any Court of competent jurisdiction.

Penalties,
costs, and
expenses
recoverable
by the
New Zealand
Branch of the
British
Medical
Association.

Ibid., s. 10

(2) All penalties, costs, and expenses recovered by the Association shall be applied towards the costs and expenses of and incidental to the performance by the Disciplinary Committee and the Divisional Disciplinary Committees of their functions under this Act.

Costs of
administration.
1949, No. 37,
s. 11

39. The costs and expenses of and incidental to the performance by the Disciplinary Committee and the Divisional Disciplinary Committees of their functions under this Act shall be paid partly by the Association and partly out of moneys to be appropriated by Parliament for the purpose, in proportions to be agreed upon between the Council of the Association and the Minister with the approval of the Minister of Finance.

Rules of
procedure.
Ibid., s. 12

40. (1) The Governor-General may from time to time, by Order in Council, make rules for regulating the procedure of the Disciplinary Committee and Divisional Disciplinary Committees.

(2) Subject to any such rules and to the provisions of this Act, the Disciplinary Committee and each Divisional Disciplinary Committee may regulate its own procedure as it thinks fit.

Orders,
recommendations,
and
reports.
Ibid., s. 13

41. (1) Every order made by the Disciplinary Committee shall contain a statement of the findings of the Disciplinary Committee in relation to the case, and shall be signed by the Chairman. A copy of every such order shall be forwarded to the Council of the Association.

(2) Every recommendation of the Disciplinary Committee to the Minister shall contain a statement of the findings of the Disciplinary Committee in relation to the case, and shall be signed by the Chairman.

1949, No. 38

(3) Every report of a Divisional Disciplinary Committee on an account referred to it under Part III of the Social Security Amendment Act, 1949, shall be signed by the Chairman, and shall be forwarded to the person chargeable or to the Court referring the account to the Committee, as the case may be. A copy of every such report shall be forwarded to the medical practitioner delivering the account, and to the Council of the Association.

(4) A copy of every such order, recommendation, or report shall be forwarded to the Medical Council on its request.

42. (1) An appeal against any order of the Disciplinary Committee, or against any recommendation made by it to the Minister, shall lie to the Medical Council at the instance of the registered medical practitioner or person conditionally registered to whom the order relates, or who is affected by the recommendation, or, in cases where the proceedings before the Disciplinary Committee have been taken on the application of any person other than the practitioner concerned, then at the instance of the applicant.

Appeals from decisions of Disciplinary Committee. 1949, No. 37, s. 14

(2) Every such appeal shall be brought by notice of appeal delivered to the Secretary to the Medical Council within twenty-eight days after the day on which the order or recommendation was notified to the medical practitioner concerned. A copy of the notice of appeal shall be forwarded within the same period to each party directly affected by the appeal and to the Secretary of the Disciplinary Committee.

(3) Every such appeal shall be by way of rehearing and on any such appeal the Medical Council may make such order or recommendation, as the case may be, as it thinks proper, having regard to the merits of the case and the public welfare.

43. Except as expressly provided in this Act, nothing in this Act relating to the Disciplinary Committee or to Divisional Disciplinary Committees shall be construed to limit the jurisdiction of the Supreme Court or of the Medical Council.

Jurisdiction of Court and of Medical Council not affected. *Ibid.*, s. 24

Disciplinary Powers of Council

44. (1) If the Council has reason to believe that any person who is registered as a medical practitioner or who is conditionally registered has been guilty of grave impropriety or infamous conduct in a professional respect, it may cause to be served on him a notice specifying, with sufficient particularity to enable the person to answer the same, the grounds of its belief, and requiring him to appear before the Council, at a time and place to be specified, to show cause why he should not be suspended from the practice of his profession or be otherwise dealt with in accordance with this section.

Disciplinary powers of Council. 1924, No. 28, s. 6; 1949, No. 37, s. 17

(2) No such person shall be deemed guilty of grave impropriety or infamous conduct in a professional respect by reason only of his having adopted and practised any theory of medicine or surgery if in so doing he has acted honestly and in good faith.

(3) If the person fails to appear before the Council in accordance with the terms of the notice, or, having appeared, fails to satisfy the Council either that he has not been guilty of the alleged impropriety or infamous conduct or that his conduct has not been of such a nature as to render the exercise of the powers of the Council under this section expedient in the interests of the public, the Council may, by writing under the hand of the Chairman, impose a penalty upon the person not exceeding one hundred pounds, or, with the consent in writing of the Attorney-General, suspend the person from practice as a medical practitioner for a period not exceeding twelve months. In giving or withholding consent under this subsection the Attorney-General shall consider only the gravity and nature of the impropriety or conduct charged, apart from the question whether the medical practitioner has in fact been guilty of the impropriety or conduct.

(4) Every monetary penalty imposed by the Council under this section shall be recoverable as a debt due to the Crown, and shall be paid into the Public Account and form part of the Consolidated Fund.

(5) While any order of suspension from practice as a medical practitioner under this section remains in force the person shall be deemed not to be a registered medical practitioner or conditionally registered, as the case may be, but forthwith on the expiry of the order his rights and privileges as a registered medical practitioner or person conditionally registered shall be revived as from the date of the expiry.

(6) There shall be a right of appeal to the Supreme Court from an order of suspension or the imposition of a penalty under this section, and on any such appeal the Court may make such order as it thinks proper, having regard to the merits of the case and to the public welfare.

(7) An order of suspension shall not take effect in any case until the expiration of twenty-one days after the notification by the Council to the person affected of the

making of the order. If within the said period of twenty-one days the person gives due notice of appeal to the Supreme Court, the order shall not take effect unless and until it is confirmed by the Supreme Court or the appeal is for any reason dismissed by that Court:

Provided that, unless the Supreme Court otherwise orders, the period of suspension named in the order shall commence on the day when the order commences to have effect.

(8) The powers conferred on the Council by this section are in addition to its powers under section forty-six of this Act, and it shall not be obligatory on the Council to take any steps under this section before proceeding to exercise the powers conferred by the said section forty-six.

Jurisdiction of Supreme Court

45. (1) An appeal against any order or recommendation made by the Medical Council on an appeal to the Council under this Act shall lie to the Supreme Court at the instance of any party to the appeal to the Council.

Appeals to
Supreme Court.
1949, No. 37,
s. 16

(2) Every such appeal shall be brought by notice of appeal filed in the Supreme Court within twenty-eight days after the day on which the order or recommendation was notified to the medical practitioner concerned. A copy of the notice of appeal shall be forwarded within the same period to each party directly affected by the appeal, and to the Secretary to the Medical Council.

(3) Every such appeal shall be by way of rehearing, and on any such appeal the Court may make such order or recommendation as it thinks proper, having regard to the merits of the case and to the public welfare.

46. (1) If any person who is registered as a medical practitioner or conditionally registered is, in the opinion of the Council, guilty of any grave impropriety or infamous conduct in any professional respect, or if any such person has been convicted of an indictable offence (either before or after his registration) punishable by imprisonment with hard labour for a term of two years or upwards, the Council may, with the leave in writing of the Attorney-General, apply to the Supreme Court for an order for the removal of the name of that person from the register and the Court may make such order in the matter as it thinks fit:

Supreme Court
may order
removal of
name from
register for
grave
misconduct.
1914, No. 74,
s. 22

Provided that the name of any such person shall not be removed from the register under this section by reason of an indictable offence committed before the date of his registration if at that date the Council was aware of his conviction in respect of that offence.

(2) In any order under this section for the removal from the register of the name of any such person the Court may fix a time after which the person whose name is so removed as aforesaid may apply for re-registration under this Act.

(3) At the expiration of that time the person whose name has been so removed may apply for re-registration, and all the provisions of this Act as to registration shall so far as applicable apply to re-registration under this section.

(4) If the Court does not fix any such time as aforesaid, the Council may refuse to consider any such application for such time as it thinks fit:

Provided that any person aggrieved by the refusal of the Council to consider that application may apply to the Court for an order directing the Council to consider that application, or directing the Secretary to the Council to enter in the register the name of that person, and thereupon the Court may make such order in the matter as it thinks fit.

Procedure

47. The Medical Council, the Disciplinary Committee, and any Divisional Disciplinary Committee may appoint a legal assessor to be present at any inquiry or appeal to advise the Council or Committee on matters of law, procedure, and evidence.

48. (1) The Medical Council, the Disciplinary Committee, or any Divisional Disciplinary Committee, by notice in writing under the hand of its Chairman or Secretary, may require any person to attend and give evidence before it at any inquiry or appeal under this Act, and to produce all books and documents in that person's custody or under his control relating to the subject matter of any such inquiry.

(2) The Council or Committee may require any such evidence to be given on oath, and either orally or in writing, and for that purpose the Chairman of the Council or Committee may administer an oath.

Legal
assessors.
1949, No. 37,
s. 18

Medical
Council and
Disciplinary
Committees
may require
evidence
to be given.
Ibid., s. 19

(3) Every person who without lawful justification refuses or fails to give evidence when required to do so by the Medical Council, the Disciplinary Committee, or a Divisional Disciplinary Committee, or to answer truly and fully any question put to him by the Council or Committee, or to produce to the Committee any book or document required of him, commits an offence against this section, and shall be liable on summary conviction to a fine not exceeding one hundred pounds.

49. Witnesses and counsel shall have the same privileges and immunities in relation to inquiries and appeals before the Medical Council, the Disciplinary Committee, or any Divisional Disciplinary Committee as if they were proceedings in a Court of law.

Immunity of
witnesses
and counsel.
1949, No. 37,
s. 20

50. (1) Every witness giving evidence or intending to give evidence at the hearing of any inquiry or appeal under this Act shall be entitled in the discretion of the Medical Council or Disciplinary Committee or Divisional Disciplinary Committee to such sum for his expenses and loss of time as the Council or Committee may determine.

Witnesses'
expenses.
Ibid., s. 21

(2) Subject to any order made by the Council or Committee as to the payment of costs or expenses, all such witnesses' expenses shall be paid by the Association.

General

51. Where—

- (a) An order has been made against any registered medical practitioner or person conditionally registered by the Disciplinary Committee or by the Medical Council on any inquiry or appeal under this Act, and no appeal therefrom has been brought within the time limited in that behalf; or
- (b) An order has been made against any registered medical practitioner or person conditionally registered by the Supreme Court under this Act,—

Publication of
orders in *New
Zealand
Medical
Journal*.
Ibid., s. 22

the Secretary of the Committee in the case of an order made by the Committee, and the Secretary to the Council in any other case, shall, if the Committee or Council in its discretion so directs, cause a notice stating the effect of the order to be published in the *New Zealand Medical Journal*.

Protection of
Medical
Council,
Disciplinary
Committee,
and other
persons.
1949, No. 37,
s. 23

52. Neither the Medical Council, the Disciplinary Committee, nor any Divisional Disciplinary Committee, nor any member or servant of the same, shall be under any criminal or civil liability whatsoever in respect of anything done or omitted to be done or of any words spoken or written at or for the purposes of the hearing of any inquiry, appeal, or other proceedings under this Act unless it is proved to the satisfaction of the Court before which any proceedings are taken that the defendant in the proceedings has acted in bad faith.

PART IV

GENERAL

Fees.
1914, No. 74,
s. 26; 1932-33,
No. 45, s. 12

53. (1) The Secretary to the Council, or any officer of the Department of Health authorized in that behalf by the Director-General of Health, as the case may be, shall take and receive such fees in respect of such matters under this Act as are from time to time prescribed by regulations under this Act.

(2) Until the appropriate fee has been paid the Secretary to the Council or any such officer of the Department of Health may decline to do any act, or to permit any act to be done, or to receive any document, in respect of which that fee is payable.

(3) All fees payable to the Medical Council shall be paid into the Public Account and form part of the Consolidated Fund.

Annual
practising
certificates.
1932-33,
No. 45, s. 11

54. (1) Subject to the provisions of this section, every person who is registered as a medical practitioner or conditionally registered commits an offence and shall be liable on summary conviction to a fine not exceeding five pounds for each day during which the offence continues who, not having obtained from the Secretary to the Council under this section a certificate which is then in force to the effect that he is registered under this Act, practises medicine or surgery, or any branch of medicine or surgery, under the style or title of a physician, surgeon, doctor, licentiate in medicine or surgery, bachelor of medicine, or medical practitioner, or under any name, title, addition, or description implying that he holds any diploma or degree in medicine

or surgery, or in any branch of medicine or surgery, or is otherwise specially qualified to practise medicine or surgery, or any branch of medicine or surgery.

(2) Subject to the payment of the prescribed fee, the Secretary to the Council, on application made to him for that purpose by any such person, shall issue to him a certificate accordingly; and any such certificate shall be in force from the thirty-first day of March next after the issue thereof until the thirty-first day of March following, or, if the person applying for the same so requires, from the issue thereof until the thirty-first day of March next following:

Provided that, if at any time during the currency of the certificate the holder thereof ceases to be registered under this Act, the certificate shall thereupon be deemed to be cancelled.

(3) Without limiting in any way the authority conferred on the Governor-General by section sixty-one of this Act to make regulations, it is hereby expressly declared that the Governor-General, acting under the authority of the said section, may make regulations prescribing the fees payable for certificates under this section.

(4) Any person who is entitled to receive a certificate under this section shall be deemed to have obtained the certificate when he has duly applied to the Secretary to the Council for the same and paid the prescribed fee therefor.

(5) Nothing in this section shall apply with respect to—

(a) Any such person in so far as he is practising in the employment of any Department of the Government service:

(b) Any such person in so far as he is rendering medical or surgical aid to any person in an emergency:

(c) Any person holding a provisional certificate for the time being in force under section twenty-five of this Act.

55. Every person commits an offence and shall be liable on summary conviction to a fine not exceeding ten pounds for each day during which the offence continues who, not being registered as a medical practitioner or conditionally registered, practises medicine or surgery,

Penalty for
wrongfully
using title of
medical
practitioner.
1914, No. 74,
s. 23

or any branch of medicine or surgery, under the style or title of a physician, surgeon, doctor, licentiate in medicine or surgery, bachelor of medicine, or medical practitioner, or under any name, title, addition, or description implying that he holds any diploma or degree in medicine or surgery or in any branch of medicine or surgery, or is otherwise specially qualified to practise medicine or surgery or any branch of medicine or surgery.

Appointments to be held only by medical practitioners.
1914, No. 74,
s. 29

See Reprint
of Statutes,
Vol. III, p. 725

56. (1) No person shall hold any appointment as physician, surgeon, or other medical officer in the New Zealand armed forces, or in any institution or separate institution under the Hospitals Act, 1926, or in any mental hospital, or in any prison, or in any other public institution, or to any friendly or other society for affording mutual relief in sickness, infirmity, or old age, or as a Medical Officer of Health, unless he is registered as a medical practitioner or conditionally registered.

(2) Every person who accepts or holds any appointment for which he is disqualified by reason of this section commits an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds.

(3) Nothing in this section shall authorize any person who is conditionally registered to practise medicine or surgery in contravention of section ten of this Act.

Right of registered medical practitioner to sue for fees.
1914, No. 74,
s. 27
1949, No. 38

57. Subject to the provisions of sections twenty-three and twenty-nine of the Social Security Amendment Act, 1949, every person who is registered as a medical practitioner at the time when any fee or other remuneration for his professional services, whether medical or surgical, is incurred shall be entitled to sue in any Court of law to the extent of the jurisdiction of that Court for the recovery of the fee or other remuneration.

Other persons not to sue for fees.
1914, No. 74,
s. 28

58. No person shall be entitled to recover any charge in any Court of law in New Zealand for any medical or surgical advice or attendance, or for the performance of any operation, or for any medicine which he has both prescribed and supplied, unless he was registered as a medical practitioner at the time when the charge in respect of which the action is brought was incurred.

59. Nothing in this Act shall affect the lawful occupation, trade, or business of any registered pharmaceutical chemist, registered dentist, registered midwife, or registered nurse.

Act not to affect chemists, &c.
1914, No. 74,
s. 33

60. All references in any Act to a medical practitioner, or registered medical practitioner, or duly qualified medical practitioner shall, unless a different intention appears, be deemed to be references to a registered medical practitioner under this Act or, subject to the provisions of this Act, to a person conditionally registered under this Act.

References to medical practitioners in other Acts.
Ibid., s. 37

61. (1) The Governor-General may from time to time, by Order in Council, make all such regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

Regulations.
Ibid., s. 36

(2) All regulations made under this Act shall be laid before Parliament within twenty-eight days after the date of the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the commencement of the next ensuing session.

62. (1) The enactments mentioned in the Schedule to this Act are hereby repealed.

Repeals and savings.
Ibid., s. 34

(2) All appointments, licences, regulations, rules, Orders in Council, orders, registers, registrations, records, instruments, and generally all acts of authority which originated under the enactments hereby repealed, or under the corresponding provisions of any former enactment, and are subsisting or in force at the commencement of this Act shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.

(3) All matters and proceedings commenced under any such enactment and pending or in progress at the commencement of this Act may be continued, completed, and enforced under this Act.

Schedule.
Section 62

SCHEDULE

ENACTMENTS REPEALED

1914, No. 74—

The Medical Practitioners Act, 1914. (Reprint of Statutes, Vol. V, p. 669.)

1924, No. 28—

The Medical Practitioners Amendment Act, 1924. (Reprint of Statutes, Vol. V, p. 683.)

1932–33, No. 45—

The Finance Act, 1932–33 (No. 2): sections 11 and 12.

1949, No. 37—

The Medical Practitioners Amendment Act, 1949.
