

PHYSIOTHERAPISTS REGISTRATION ACT.

Act No. 9, 1945.

George VI.
No. 9, 1945.

An Act to make provision for the registration of physiotherapists; to regulate the qualifications for and the effect of such registration; to provide for the constitution of a Physiotherapists Registration Board and to define the powers and functions of that Board; and for purposes connected therewith. [Assented to, 21st March, 1945.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title
and com-
mencement.

1. (1) This Act may be cited as the "Physiotherapists Registration Act, 1945."

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Interpreta-
tion.
Vict. Act
No. 3728,
1928, s. 3
(1).

2. In this Act, unless the context or subject-matter otherwise indicates or requires—

"Australian Physiotherapy Association" means the Australian Physiotherapy Association formerly known as the Australasian Massage Association.

"Board" means the Physiotherapists Registration Board constituted under this Act.

"Medical practitioner" means a person registered under the Medical Practitioners Act, 1938-1939.

"Member" means a member of the Board.

"Physiotherapist" means a person (whether male or female) registered under this Act.

"Physiotherapy"

- “Physiotherapy” means the use by external application to the human body of manipulation, electricity, heat, light or any proclaimed method for the purpose of curing or alleviating any abnormal condition thereof; but does not include the internal use of any drug or medicine or the application of any medical or surgical appliance except so far as the application of such appliance is necessary in the use as aforesaid of manipulation, electricity, heat, light or any proclaimed method.
- “Prescribed” means prescribed by this Act or by the regulations.
- “Proclaimed method” means any method of practising physiotherapy which on the recommendation of the Board the Governor by proclamation published in the Gazette declares to be for the purposes of this Act a proclaimed method.
- “Register” means the register of physiotherapists under this Act.
- “Regulations” means regulations under this Act.
- “Secretary” means the secretary to the Board appointed under this Act.

3. There shall be constituted a Board, to be called the Physiotherapists Registration Board, which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon the Board by or under this Act.

4. (1) The Board first constituted under this Act shall consist of seven members who shall be appointed by the Governor.

- (2) Of the members so appointed—
- (a) two shall be medical practitioners, one of whom shall be nominated for appointment by the Senate of the University of Sydney;
 - (b) four shall be persons (not being medical practitioners) engaged in the practice or teaching of physiotherapy, two of whom shall be nominated for appointment by the Australian Physiotherapy Association;
 - (c) one shall be nominated for appointment by the Minister.

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(3) The members of the Board first constituted under this Act shall, subject to the provisions of this Act, hold office until the thirtieth day of June, one thousand nine hundred and forty-seven, and shall, if otherwise qualified, be eligible for reappointment or election as members.

Subsequent Boards.

5. (1) On and from the first day of July, one thousand nine hundred and forty-seven, the Board shall consist of seven members, of whom—

- (a) two shall be medical practitioners appointed by the Governor, one of whom shall be nominated for appointment by the Senate of the University of Sydney;
- (b) three shall be physiotherapists (not being medical practitioners) elected by persons for the time being registered as physiotherapists;
- (c) one shall be a physiotherapist (not being a medical practitioner) appointed by the Governor;
- (d) one shall be appointed by the Governor on the nomination of the Minister.

(2) (a) The members referred to in paragraphs (a), (c) and (d) of subsection one of this section are in this Act referred to as the "appointed members."

(b) The members referred to in paragraph (b) of subsection one of this section are in this Act referred to as the "elected members."

Elected members.

6. (1) All elections of elected members shall be held and conducted in the manner prescribed.

(2) Elections of elected members shall be held during the month of May in the year one thousand nine hundred and forty-seven and in each third year thereafter.

(3) The persons elected at any such election shall assume office as elected members on the first day of July next after their election and, subject to the provisions of this Act, shall hold office for a period of three years and shall be eligible for re-election.

Appointed members.

7. The appointed members of the Board shall, subject to this Act, hold office for a period of three years, and shall be eligible for reappointment.

8.

8. The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to any appointment of members of the Board, and such members shall not in their capacity as members of the Board be subject to the provisions of any such Act.

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Public Service Act not to apply to appointments.

9. Each member of the Board shall be paid such fees as the Governor may direct.

Remuneration of members.
President.

10. (1) The Governor shall appoint one of the members as the President of the Board.

(2) The President, when present, shall preside at all meetings of the Board.

In the absence of the President from any meeting, another member, chosen for the purpose by the majority of members present and voting, shall preside.

(3) The person presiding for the time being shall have a casting vote as well as a deliberative vote.

11. A member shall be deemed to have vacated his office if—

Vacation of office.
cf. Act No. 37, 1938, s. 7.

- (a) he dies; or
- (b) he resigns his office by writing under his hand addressed to the Secretary; or
- (c) he becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act of 1898; or
- (d) he is absent without the leave of the Board from three consecutive meetings of the Board; or
- (e) he is removed from office by the Governor; or
- (f) he attains the age of sixty-five years; or
- (g) being an elected member, his registration under this Act is suspended or cancelled or his name is for any reason removed from the register.

12. The Governor may, for any cause which appears to him to be sufficient, remove any member from office.

Power of Governor to remove from office.
Ibid. s. 8.
Casual vacancies.
Ibid. s. 9.

13. (1) Where a casual vacancy occurs in the office of a member, a member shall be appointed by the Governor to fill the vacant office.

(2) (a) Where the casual vacancy occurs in the office of a member appointed on the nomination of the Minister or one of the bodies referred to in subsection two of section four or subsection one of section five of this Act, the member appointed to the vacant office shall be

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No. 9, 1945. be appointed on the nomination of the Minister or the body by which his predecessor was nominated, as the case may be.

(b) Where the casual vacancy occurs in the office of an elected member the member appointed to the vacant office shall be a person for the time being registered as a physiotherapist (not being a medical practitioner) and such person shall be deemed to be an elected member.

(3) A member appointed under the authority of this section shall hold office for the balance of his predecessor's term of office, but shall be eligible for reappointment.

Quorum, etc.
cf. Act No.
37, 1938,
s. 10.

14. (1) At any meeting of the Board four members shall form a quorum.

(2) The procedure for the calling of meetings of the Board and for the conduct of business at such meetings shall, subject to any regulations in relation thereto and to this Act, be as determined by the Board.

Ordinary
meetings of
the Board.
Ibid. s. 11.

15. An ordinary meeting of the Board shall be called in each calendar month by notice sent to the President and to each other member of the Board at least seven days before the date of such meeting.

Defects in
appoint-
ments not to
invalidate
the proceed-
ings of the
Board.
Ibid. s. 12.

16. (1) No act or proceeding of the Board shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced there was a vacancy in the office of any member.

(2) All acts and proceedings of the Board shall, notwithstanding the subsequent discovery of any defect in the appointment or election of any member thereof, or that any member was disqualified to act, be as valid as if such member had been duly appointed or elected and was qualified to act and had acted as a member of the Board, and as if the Board had been properly and fully constituted.

Protection
of the Board
and others
from
liability.
Act No. 10,
1934, s. 21.
Act No. 37,
1938, s. 14.

17. No matter or thing done or suffered by the Board, or by any member or by the secretary, bona fide in the execution, or intended execution, of this Act, or the exercise or discharge, or intended exercise or discharge, of any of its or his powers or duties, shall subject the Board or any member, or the secretary, or any other person, or the Crown, to any liability in respect thereof.

18.

18. The Governor may from time to time under and subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts, appoint a secretary to the Board, an inspector and such other officers as he may deem necessary for the purposes of this Act.

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Appoint-
ments.

19. Subject to this Act the powers and duties of the Board shall be—

Powers and
duties of
Board.
Act No. 37,
1924, s. 5.
Vict. Act No.
3728, 1928,
s. 5 (1).

- (a) to determine the character, subjects and conduct of examinations (including special examinations for blind persons) and to appoint examiners;
- (b) to decide upon the places where and the days and times on and at which examinations are to be held;
- (c) to issue and cancel certificates of registration;
- (d) to suspend the registration of any person under this Act and to annul such suspension;
- (e) to cancel the registration of any person under this Act and to annul such cancellation; and
- (f) generally, to do any other act or exercise any other power or perform any other duty necessary for carrying the provisions of this Act into effect.

20. (1) The Board shall keep a register, to be called the "Register of Physiotherapists for New South Wales."

Register.
cf. Act No.
37, 1938,
s. 15.

(2) A person shall be registered by the entering in the register of—

- (a) his full name and address;
- (b) the date upon which he is registered;
- (c) particulars of the qualification or qualifications in respect of which his registration is granted.

(3) There may also be entered in the register in respect of any registered person, subject to payment of any fee which may be prescribed in relation to the entry—

- (a) particulars of such further or additional qualifications possessed by such registered person as the Board may direct shall be so entered;
- (b) particulars of any certificate, diploma, membership, degree, license, letters, testimonial or other title, status, document or description which

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which such registered person is authorised by the Board to use in relation to himself as a physiotherapist or in the practice of his profession as such;

- (c) such other particulars and matters as are directed or authorised by this Act or the regulations to be so entered.

(4) The register shall at all reasonable times be open to inspection at the office of the Board by any person on payment of the prescribed fee.

(5) The secretary shall, in the month of January in each year, transmit a certified copy of such register to the Minister and if the Minister so directs, such copy shall be published in the Gazette as soon as possible.

Qualifications for registration.

21. (1) Any person who proves to the satisfaction of the Board that he is of good character and has attained the age of twenty years, shall be entitled to be registered as a physiotherapist if—

- (a) he has completed the prescribed course of training and passed the prescribed examinations; or in the case of a blind person he has completed the prescribed special course of training and passed the prescribed special examinations; or
- (b) at the date of the commencement of this Act he has completed the course of training conducted by and received the Diploma of the Australian Physiotherapy Association; or
- (c) prior to the date of the commencement of this Act he had entered upon the course of training conducted by the Australian Physiotherapy Association and subsequent to such commencement receives the diploma of that association; or
- (d) he is the holder of a diploma or a certificate of competency in physiotherapy obtained by examination after a course of study and training from any body in New South Wales recognised by the Board; or
- (e) he is the holder of a recognised certificate as hereinafter defined and has passed such examination as the Board may in any particular case require; or

(f)

- (f) he establishes to the satisfaction of the Board ^{No. 9, 1945.} that, prior to the commencement of this Act, he had been bona fide engaged in New South Wales in the practice of physiotherapy for at least twenty-four months during the period of three years immediately preceding such commencement; or
- (g) being at the commencement of this Act a member of the naval, military or air forces of the Commonwealth, he establishes to the satisfaction of the Board that, prior to the date of becoming a member of such forces, he had been bona fide engaged in New South Wales or elsewhere in the practice of physiotherapy, for such period as the Board may deem reasonable, or that during his service with such forces he had been bona fide engaged in the practice of physiotherapy as a member of such forces; or
- (h) he has been a pupil or apprentice for a period of not less than three years to a practising physiotherapist entitled to be registered under this Act and has passed such examination as the Board may require: Provided that such pupilage or apprenticeship has commenced at least six months before the commencement of this Act and has expired before he applies to be registered as a physiotherapist; or
- (i) being, at the commencement of this Act, a member of any organisation which the Governor by proclamation published in the Gazette declares to be an organisation rendering war service, or engaged in an industry declared to be a protected industry in pursuance of the National Security (Man Power) Regulations under the National Security Act, 1939-1943, of the Parliament of the Commonwealth, he establishes to the satisfaction of the Board that, prior to the date of becoming a member of any such organisation or being engaged in any such industry, he had been bona fide engaged in New South Wales or elsewhere in the practice of physiotherapy for such period as the Board may deem reasonable.

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(2) Any certificate, diploma, membership, degree, license, letters, testimonial or other title, status or document granted by any body, association or institution in any country, whether British or foreign (other than New South Wales) and which is recognised by the Board as furnishing sufficient guarantee of the possession of the requisite knowledge and skill for the efficient practice of physiotherapy in New South Wales, shall be deemed to be a recognised certificate for the purposes of this Act.

(3) No person referred to in paragraph (f), paragraph (g) or paragraph (i) of subsection one of this section shall be entitled to be registered as a physiotherapist unless he makes application for registration within the prescribed period or within such further time as the Board may in any particular case allow.

The prescribed period shall be—

- (a) in the case of a person to whom paragraph (f) of subsection one of this section applies—one year after the commencement of this Act; and
- (b) in the case of a person to whom paragraph (g) of subsection one of this section applies—one year after the date of such person's discharge from the naval, military or air forces of the Commonwealth; and
- (c) in the case of a person to whom paragraph (i) of subsection one of this section applies—one year after the date of such person's discharge from any organisation referred to in subsection one of this section or of the termination of such person's engagement in any protected industry referred to in subsection one of this section, as the case may be.

Annual
roll fee.
cf. Act No.
10, 1934,
s. 6 (3)-(7).

22. (1) Every physiotherapist shall in or before the month of October in each year pay to the secretary a roll fee of such amount as may be prescribed for the following year.

(2) If any physiotherapist does not pay the prescribed roll fee before the thirty-first day of October in any year the Board shall forthwith notify him by registered letter addressed to him at the address appearing in the register that if the fee be not paid before

the

the first day of January next following his name will be removed from the register. If any physiotherapist who has been so notified fails to pay such fee before the said first day of January, the Board shall remove his name from the register. No. 9, 1945.

(3) If the name of any physiotherapist is removed from the register under this section, the Board shall, upon application in the prescribed form, restore his name to the register upon payment of such fees as are prescribed by regulations made under this Act. The regulations may provide for the waiver of such part of the fees as the Board may in a particular case deem proper.

(4) Together with the roll fee the physiotherapist shall furnish particulars of his address for entry in the register.

(5) Where the name of a physiotherapist has been removed from the register, and until the name has been restored thereto, the physiotherapist shall be deemed to be a person not registered as a physiotherapist under this Act.

23. (1) The Board shall cause to be removed from the register the names of—

- (a) every deceased physiotherapist;
- (b) every physiotherapist who has ceased to possess or does not possess the qualifications in respect of which he was registered;
- (c) every physiotherapist who has become an insane person or patient or an incapable person within the meaning of the Lunacy Act of 1898.

Removal of names of deceased physiotherapists, etc.
cf. Act No. 10, 1934, s. 7.

(2) Every district registrar under the Registration of Births Deaths and Marriages Act, 1899, as amended by subsequent Acts (including the Registrar-General in respect of deaths registered in the district of Sydney), upon registering the death of any physiotherapist, shall transmit notice of such death to the secretary to the Physiotherapists Registration Board at Sydney and the Board shall, upon receipt of such notice, cause the name of such physiotherapist to be removed from the register.

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(3) Every such district registrar shall be entitled to receive a fee of two shillings for each such notification and subsection two of section fifteen of the said Act shall extend to such fees.

Removal of
name on
account of
misconduct,
etc.
cf. Act No.
10, 1934,
s. 8.

24. (1) Where a person registered in the register—

- (a) has been convicted, either in New South Wales of a felony or misdemeanour, or elsewhere of an offence which, if committed in New South Wales, would have been a felony or misdemeanour; or
- (b) has been guilty of habitual drunkenness or of addiction to any deleterious drug; or
- (c) has been adjudged by the Board, after an inquiry as hereinafter provided, to have been guilty of misconduct in a professional respect,

the Board may remove his name from the register or suspend his registration for such period as the Board shall think fit.

(2) In the case of a conviction for an offence as aforesaid, no person shall have his name removed from the register or have his registration suspended on account thereof if such offence does not, either from its trivial nature or from the circumstances under which it was committed, render such person unfit in the public interest to practise physiotherapy.

(3) In the case of a charge of misconduct in a professional respect the Board, in making due inquiry, shall sit as in open court, and the person charged shall be afforded an opportunity of defence either in person or by counsel.

(4) Every person, other than a member of the police force or a member of the public service, who makes a complaint to the Board alleging misconduct in a professional respect against any person, shall deposit with the Board the sum of five pounds at the time of lodging his complaint.

If after considering the complaint the Board is of opinion that the complaint is vexatious or frivolous in its nature it shall so declare, and thereupon the sum so deposited shall be forfeited.

In the absence of such declaration the sum so deposited shall be refunded to the complainant.

(5)

(5) Whenever the registration of a physio-therapist is suspended under the provisions of this section the secretary shall enter in the register a memorandum of that fact and of the date and cause thereof. No. 9, 1945.

(6) Any person aggrieved by the removal of his name from the register or by the suspension of his registration or by any refusal or failure to register his name in the register may, within three months after the date on which notice is given to him by the secretary that his name has been so removed or his registration suspended, or within six months after the date on which he applied to be registered, as the case may be, appeal against the removal or suspension or the refusal or failure, as the case may be, to the District Court having jurisdiction in the district within which such person resides or practises as a physiotherapist.

(7) Any such appeal shall be in the nature of a rehearing and shall be made in accordance with rules of court.

(8) The District Court may make such order as it deems fit and such order shall be final, and without appeal, and the Board shall give effect thereto.

25. Where the Board directs the removal from the register of the name of any person, the name of that person shall not be again entered on the register, except by direction of the Board or by order of a court of competent jurisdiction. The Board may, if it thinks fit in any case, direct the secretary to restore to the register any name removed therefrom without fee, or on payment of such fee, not exceeding the registration fee, as the Board may from time to time direct, and the secretary shall restore the name accordingly.

Restoration of name to register. cf. Act No. 10, 1934, s. 9.

26. As from the expiration of twelve months after the commencement of this Act any person not being a physiotherapist registered under this Act, who takes or uses any name, initials, word, title, addition, symbol or description which, having regard to the circumstances in which it is taken or used, indicates, or is capable of being understood to indicate, or is calculated to lead persons to infer that he is registered under this Act as a physiotherapist, or who takes or uses the name or title of physiotherapist shall be liable for each offence to a penalty not exceeding fifty pounds.

Penalty—unregistered person holding himself out as physiotherapist. *Ibid.* s. 11.

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False entries in register, misrepresentation, etc. cf. Act No. 10, 1934, s. 14.

27. Any secretary or other person who wilfully makes or causes to be made any false entry in or falsification of the register, and any person who wilfully procures or attempts to procure himself or any other person 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 verbally or in writing, and any person aiding or assisting therein, shall be guilty of a misdemeanour and shall, on conviction, be liable to be imprisoned for any term not exceeding twelve months.

The board may examine witnesses on oath. *Ibid.* s. 15.

28. The Board may examine any person upon oath or take a solemn declaration from any person for the purposes of this Act, and if any person wilfully makes any false statement upon such examination or in such declaration, or utters or attempts to utter, or put off as true before the Board any false, forged or counterfeit certificate, diploma, license, letter, testimonial or other document or writing he shall be guilty of a misdemeanour and shall on conviction be liable to be imprisoned for any period not exceeding twelve months.

Informations to be laid by secretary, etc. *Ibid.* s. 16.

29. Any person who contravenes any of the provisions of this Act for which a penalty is not expressly provided or who contravenes any provision of the regulations shall be liable to a penalty not exceeding fifty pounds.

All informations for offences against this Act and regulations shall be laid by the secretary or by some other person appointed by the Board for the purpose either generally or in any particular case, or a member of the police force.

All such penalties may be recovered before any stipendiary or police magistrate or two justices of the peace sitting in petty sessions.

Documents under hand of secretary to be prima facie evidence. *Ibid.* s. 19.

30. A document purporting to be a certificate under the hand of the secretary and stating any one or more of the following matters—

- (a) that any person was or was not on any date or during any period mentioned in the certificate registered under this Act; or

(b)

- (b) that on any date or during any period mentioned in the certificate the registration of any person was suspended, No. 9, 1945.

shall in all courts and before all persons and bodies authorised by law to receive evidence, be prima facie evidence of the facts stated.

31. (1) Prima facie evidence of any entry in the register may be given in all courts and before all such persons and bodies as aforesaid— Prima facie evidence of entry in register may be given in all courts.

- (a) by production of a document purporting to be a true copy of such entry, and purporting to be certified as such by the secretary; or cf. Act No. 10, 1934, s. 20.
- (b) by production of a copy of the Gazette containing the latest published copy of the register.

(2) An entry in the register shall be prima facie evidence in all courts and before all such persons and bodies as aforesaid of the truth of all matters contained in it.

32. (1) The fees payable and penalties recovered under this Act or the regulations shall be paid to the secretary. Fees and penalties.

(2) The amount of such fees and penalties shall be paid by the secretary to the Colonial Treasurer and shall be carried to the Consolidated Revenue Fund.

(3) The expenses of the Board in carrying out the administration of this Act shall be paid out of moneys provided by Parliament. Expenses of administration.

33. (1) The Governor, on the recommendation of the Board, may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act. Regulations.

In particular and without prejudice to the generality of the foregoing provision, regulations may be made—

- (a) regulating the proceedings of the Board;
- (b) regulating the issue and cancellation of certificates of registration under this Act and the conditions of registration;

(c)

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- (c) prescribing the manner in which a complaint or charge of misconduct in a professional respect may be preferred to the Board;
 - (d) prescribing the procedure to be followed at and any matters incidental to the holding of an inquiry in respect of any complaint or charge as aforesaid;
 - (e) prescribing the course of training for all persons desiring to be registered under this Act, including any special courses required for the training of blind persons;
 - (f) regulating and supervising the conduct and prescribing the standard of examinations (including special examinations for blind persons) and the remuneration of examiners;
 - (g) prescribing the fees to be paid for examinations, certificates and registration.
- (2) Such regulations shall—
- (a) be published in the Gazette;
 - (b) take effect from the date of such publication or from a later date specified in the regulations; and
 - (c) be laid before both Houses of Parliament within fourteen sitting days after such publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.
- (3) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.