

**PHYSIOTHERAPISTS REGISTRATION
(AMENDMENT) ACT.**

New South Wales



ANNO VICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 21, 1972.

An Act to make further provisions with respect to the powers of inspectors under the Physiotherapists Registration Act, 1945, and the registration of physiotherapists; to permit the legal personal representative of a deceased physiotherapist to carry on the practice of that physiotherapist; for these and other purposes to amend that Act; and for purposes connected therewith. [Assented to, 29th March, 1972.]

BE

Physiotherapists Registration (Amendment).

No. 21, 1972 **B**E it enacted by the Queen'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 (Amendment) Act, 1972".

(2) Paragraphs (e), (f) and (g), subparagraphs (vi) and (viii) of paragraph (i), subparagraph (i) of paragraph (j) and paragraphs (k), (l) and (m) of section two of this Act shall commence upon a day or days to be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment
of Act No.
9, 1945.

2. The Physiotherapists Registration Act, 1945, is amended—

Sec. 4.
(First
Board.)

(a) by omitting section four;

Sec. 11.
(Vacation
of office.)

(b) by omitting paragraph (c) of section eleven and by inserting in lieu thereof the following paragraph :—

(c) he becomes a mentally ill person, a protected person, or an incapable person within the meaning of the Mental Health Act, 1958; or;

Sec. 13.
(Casual
vacancies.)

(c) by omitting from paragraph (a) of subsection two of section thirteen the words "subsection two of section four or";

Sec. 18.
(Appoint-
ments.)

(d) (i) by omitting from subsection one of section eighteen the words "an inspector and such other officers" and by inserting in lieu thereof the words "and such inspectors and other officers";

(ii)

Physiotherapists Registration (Amendment).

- (ii) by inserting next after subsection two of the No. 21, 1972 same section the following new subsections :—

(3) Upon complaint made by an inspector on oath before a justice that the inspector suspects or believes that any of the provisions of this Act or of the regulations have been or are being contravened, and upon reasonable grounds being shown in such complaint for the inspector so suspecting or believing, that justice may grant a search warrant authorising that inspector, at any time or times within one month from the date of the warrant, to enter the premises named in the warrant and to make such enquiries therein as such inspector may think fit.

(4) A person shall not wilfully delay or obstruct an inspector in the exercise of his powers under this section.

- (e) by inserting next after subsection one of section twenty-one the following new subsections :—

(1A) Notwithstanding the provisions of subsection one but subject to the provisions of subsection (1B) of this section, a person who after the commencement of paragraph (e) of section two of the Physiotherapists Registration (Amendment) Act, 1972, passes, in the case of a person who is not a blind person, the prescribed examinations or, in the case of a person who is a blind person, the prescribed special examinations referred to in paragraph (a) of subsection one of this section, or obtains a diploma or certificate of competency referred to in paragraph (d) of that subsection, following a course or special course of training or study commenced by him after that commencement, or is the holder of a recognised certificate, and

passes

Sec. 21.
(Qualifications for registration.)

Physiotherapists Registration (Amendment).

No. 21, 1972

passes the examination (if any), referred to in paragraph (e) of that subsection, shall not be entitled to be registered as a physiotherapist unless—

- (a) the Board is satisfied that he has, for a period of or for periods amounting in the aggregate to at least twelve months, satisfactorily practised physiotherapy as the holder of a certificate of conditional registration in such government department, State hospital, mental hospital, public hospital or separate institution within the meaning of the Public Hospitals Act, 1929, private hospital or other institution, as the Minister may approve; or
- (b) the Board is satisfied that—
 - (i) he is unable, by reason of his physical incapacity, to comply with the requirements of paragraph (a) of this subsection;
 - (ii) he has for a period of or periods amounting in the aggregate to at least twelve months received special tuition in physiotherapy approved by the Board; and
 - (iii) he was, during the period or periods referred to in subparagraph (ii) of this paragraph, the holder of a certificate of conditional registration.

(1B) The Board may exempt a person who but for subsection (1A) of this section would be entitled to be registered by reason of the operation of paragraph (e) of subsection one of section twenty-one of this Act from the provisions of subsection (1A) of this section, or may, in relation to such a

person.

Physiotherapists Registration (Amendment).

person, determine that the period or aggregate of periods referred to in paragraph (a) or (b) of subsection (1A) of this section shall be reduced by such period as the Board thinks fit in any particular case.

- (f) (i) by omitting subsections one and two of section 21A and by inserting in lieu thereof the following subsections : —

Sec. 21A.
(Certificate of provisional registration may be granted.)

(1) Where a person has applied to be registered the prescribed person may, upon being satisfied that the applicant is entitled to be registered under this Act and on payment of the fee to be paid for registration prescribed under paragraph (g) of subsection one of section thirty-three of this Act, grant to the applicant a certificate of provisional registration in or to the effect of the prescribed form.

(2) Where a person has, whether before or after the commencement of paragraph (e) of section two of the Physiotherapists Registration (Amendment) Act, 1972, been granted a certificate of provisional registration he shall be deemed to be registered until—

- (a) the date stated in the certificate; or
- (b) such later date as may be fixed by the Board,

which date shall, in either case, be not later than three months after the granting of such certificate.

(2A) The Board may, at any time before the date so stated or fixed, for such cause as to it seems proper, cancel a certificate of provisional registration without prejudice to the application of the holder of such certificate to be registered under this Act.

(2B)

Physiotherapists Registration (Amendment).

No. 21, 1972

(2B) Upon the cancellation of a certificate of provisional registration, the holder of such certificate shall thereupon cease to be deemed to be registered under this Act.

(ii) by inserting at the end of the same section the following new subsection:—

(4) In subsection one of this section, “the prescribed person” means—

(a) the President, or, in his absence from the City of Sydney, any other member of the Board authorised generally in that behalf by the Board; or

(b) the secretary.

New sec.
21B.

(g) by inserting next after section 21A the following new section:—

Certificate
of
conditional
registration.

21B. (1) Where a person would, but for the operation of subsection (1A) of section twenty-one of this Act be entitled to be registered as referred to in that section, the Board may, upon application made to it and on payment of the prescribed fee, grant to him a certificate of conditional registration in the prescribed form.

(2) Where a person applies for a certificate of conditional registration under subsection one of this section the prescribed person (within the meaning of subsection four of section 21A of this Act) if satisfied that the applicant—

(a) is entitled to a certificate of conditional registration under subsection one of this section; or

(b)

Physiotherapists Registration (Amendment).

(b) is of good character and has attained the No. 21, 1972 age of twenty years and—

- (i) is entitled to 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 for the purpose of paragraph (d) of subsection one of section twenty-one of this Act;
- (ii) will have such diploma or certificate of competency conferred upon or granted to him in due course according to the practice in conferring diplomas or granting certificates of competency, as the case may be, of that body; and
- (iii) would, if such diploma or certificate of competency had already been conferred upon or granted to him, be entitled to be registered as a physiotherapist but for the operation of subsection (1A) of section twenty-one of this Act,

may, upon payment of the prescribed fee, provisionally grant to him a certificate of conditional registration in the prescribed form.

(3) While a certificate of conditional registration granted to a person under subsection one or provisionally granted under subsection two of this section has effect, he shall—

- (a) be competent to practise physiotherapy in such government department, State hospital, mental hospital, public hospital or separate institution within the meaning of the Public

Hospitals

Physiotherapists Registration (Amendment).

No. 21, 1972

Hospitals Act, 1929, private hospital or other institution, as the Minister may approve; and

- (b) for purposes connected with or relating to his so practising physiotherapy, be deemed to be registered under this Act.

(4) Subject to this Act, a certificate of conditional registration granted under subsection one of this section—

- (a) shall have effect for a period of twelve months; and
- (b) may be renewed by the Board from time to time for a like period upon payment of the prescribed fee.

(5) A certificate of conditional registration provisionally granted under subsection two of this section shall, subject to this Act, have effect until—

- (a) the date stated in such certificate; or
- (b) such later date as may be fixed by the Board, which date shall, in either case, be not later than three months after the granting of such certificate.

(6) Upon the grant under subsection one of this section to a person of a certificate of conditional registration during the currency of such a certificate provisionally granted to him under subsection two of this section, the lastmentioned certificate shall cease to have effect and the first-mentioned certificate shall, unless otherwise decided by the Board, date from the granting of that lastmentioned certificate.

(7) If the holder of a certificate of conditional registration becomes registered, the certificate shall have no further effect.

(8)

Physiotherapists Registration (Amendment).

(8) The Board may on any ground specified in paragraph (c) of subsection one of section twenty-three or paragraph (a) or (c) of subsection one of section twenty-four of this Act, or on such other grounds as to it seem proper, cancel or suspend a certificate of conditional registration which shall thereupon cease to have effect. No. 21, 1972

(9) Where the Board cancels a certificate of conditional registration, the person who was the holder of the cancelled certificate shall not, except by direction of the Board or by order of a court of competent jurisdiction, be granted a further certificate of conditional registration.

(10) The Board may, in respect of a further certificate of conditional registration granted in accordance with subsection nine of this section, direct that the certificate be granted without fee, or on payment of such fee, not exceeding the prescribed fee referred to in subsection one of this section, as the Board may direct.

(h) (i) by omitting paragraph (c) of subsection one of section twenty-three and by inserting in lieu thereof the following paragraph :— Sec. 23.
(Removal of names of deceased physiotherapists, etc.)

(c) every physiotherapist who has become a mentally ill person, a protected person, or an incapable person within the meaning of the Mental Health Act, 1958.

(ii) by omitting subsections two and three of the same section ;

(i) (i) by omitting from paragraph (a) of subsection one of section twenty-four the words "felony or misdemeanour" wherever occurring and by inserting in lieu thereof the words "felony, misdemeanour, crime or offence"; Sec. 24.
(Removal of name on account of misconduct, etc.)

(ii)

Physiotherapists Registration (Amendment).

No. 21, 1972

- (ii) by omitting paragraph (b) of the same subsection;
- (iii) by omitting subparagraph (ii) of paragraph (e) of subsection (1A) of the same section and by inserting in lieu thereof the following subparagraphs :—
 - (ii) a public hospital or separate institution within the meaning of the Public Hospitals Act, 1929;
 - (iia) a charitable or philanthropic institution;
 - (iib) a government department, State hospital, mental hospital, private hospital or other institution approved by the Minister for the purposes of subsection (1A) of section twenty-one of this Act;
- (iv) by omitting from the same paragraph the words “deems reasonable.” and by inserting in lieu thereof the following words and new paragraph :—
 - deems reasonable; or
 - (f) has been guilty of habitual drunkenness or of addiction to any deleterious drug.
- (v) by inserting next after subsection (1B) of the same section the following new subsection :—
 - (1c) A physiotherapist carrying on the practice of physiotherapy as or for the legal personal representative of a deceased physiotherapist who before his death carried on such practice (other than as a duly appointed locum tenens) shall not, by reason of his carrying on such practice for a period not exceeding twelve months after the date of death of such deceased physiotherapist or for such further period as the Minister may allow in writing

in

Physiotherapists Registration (Amendment).

in any particular case, be deemed to be guilty No. 21, 1972
of misconduct in a professional respect pur-
suant to paragraph (a) or (e) of subsection
(1A) of this section.

- (vi) by omitting subsection two of the same
section and by inserting in lieu thereof the
following subsections :—

(2) In the case of a conviction as referred
to in paragraph (a) of subsection one of this
section, no person shall have his name
removed from the register or have his registra-
tion suspended or have his certificate of
conditional registration cancelled or suspended
on account thereof if the act in respect of
which such person is so convicted does not,
either from its trivial nature or from the cir-
cumstances under which it was committed,
render such person unfit in the public interest
to practise physiotherapy.

(2A) The court before whom a physio-
therapist or the holder of a certificate of con-
ditional registration is convicted of a felony,
misdemeanour, crime or offence in New South
Wales shall, except in such classes of cases as
may be specified in the regulations, notify the
Board or cause the Board to be notified, of
the fact that the physiotherapist or the holder
of the certificate has been so convicted.

(2B) A coroner, justice or justices holding
an inquest or magisterial inquiry in which a
physiotherapist or the holder of a certificate
of conditional registration is involved shall
supply the Board with a copy of the deposi-
tions taken at that inquest or magisterial
inquiry where it appears in his or their opinion
that the physiotherapist might be guilty of
misconduct in a professional respect.

(2c)

Physiotherapists Registration (Amendment).

No. 21, 1972

(2C) The supply to the Board of the depositions taken at an inquest or magisterial inquiry pursuant to subsection (2B) of this section shall be deemed to be a complaint to the Board alleging misconduct in a professional respect made by the coroner, justice or justices so supplying the depositions.

(2D) The provisions of subsection four of this section shall not apply to and in respect of a complaint referred to in subsection (2C) of this section.

(2E) The Board shall, after receiving a complaint alleging misconduct in a professional respect against a physiotherapist or the holder of a certificate of conditional registration, inform the physiotherapist or the holder of the certificate of the nature of the complaint and, by notice, invite the physiotherapist or the holder of the certificate to make, within such time as the Board specifies in the notice, such representations to the Board with respect to the complaint as he thinks fit.

(2F) The Board may, after receiving such representations or after the expiry of the time specified in the notice, whichever first happens, dismiss the complaint or set it down for inquiry under this section.

- (vii) by inserting in subsection four of the same section after the words "public service" the words "acting in his capacity as such a member";
- (viii) by omitting subsection six of the same section and by inserting in lieu thereof the following subsection :—

(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

Physiotherapists Registration (Amendment).

failure to register his name in the register or by the cancellation of, suspension of or refusal or failure to grant, a certificate of conditional registration on the grounds specified in this section or on any other grounds 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 suspended, or his certificate of conditional registration has been so cancelled or suspended, or within six months after the date on which he applied to be registered, or applied for the grant to him of a certificate of conditional registration, as the case may be, appeal against the removal or suspension or the refusal or failure or cancellation, as the case may be, to the District Court having jurisdiction in the district within which such person resides or practises as a physiotherapist or as the holder of a certificate of conditional registration.

- (j) (i) by inserting next after subsection one of section twenty-six the following new subsection :—
- (1A) A person deemed to be registered by reason of the operation of section 21B of this Act shall not—
- (a) practise physiotherapy otherwise than as provided by paragraph (a) of subsection three of that section ;
- (b) otherwise than for purposes connected with or relating to his practising physiotherapy as provided by paragraph (a) of subsection three of that section, take or use the name or title of physiotherapist, physiotherapeutist, physical
- Sec. 26.
(Unregistered person not to practise or hold himself out as physiotherapist.)

Physiotherapists Registration (Amendment).

No. 21, 1972

physical therapist or physical therapist or electrotherapist, hold himself out as being a physiotherapist or a physiotherapist or a physical therapist or physical therapist or electrotherapist or assume, take, or use, any name, initials, word, title, addition, symbol or description which, having regard to the circumstances in which it is assumed, taken or used, indicates, or is capable of being understood to indicate, or is calculated to lead persons to infer, that he is registered or deemed to be registered under this Act as a physiotherapist, or is qualified to be registered under this Act as a physiotherapist, or is competent or willing to practise physiotherapy.

- (ii) by inserting next after subsection two of the same section the following new subsection :—

(2A) Nothing in this section shall operate to prevent the legal personal representative of a deceased physiotherapist from appointing a physiotherapist to carry on the practice of the deceased physiotherapist for a period not exceeding twelve months after the date of death of such deceased physiotherapist or for such further period as the Minister may allow in writing in any particular case.

Sec. 26A.
(Physiotherapists and holders of certificates of conditional registration not to perform certain acts.)

- (k) by inserting in subsection one of section 26A after the word "physiotherapist" the words "or the holder of a certificate of conditional registration";

(1)

Physiotherapists Registration (Amendment).

- (l) by inserting in section twenty-seven after the word "registered" the words "or to become the holder of a certificate of conditional registration"; No. 21, 1972
Sec. 27.
(False entries in register, misrepresentation, etc.)
- (m) (i) by inserting in paragraph (a) of section thirty after the word "registered" the words "or the holder of a certificate of conditional registration"; Sec. 30.
(Documents under hand of secretary to be prima facie evidence.)
- (ii) by inserting in paragraph (b) of the same section after the word "registration" the words "or certificate of conditional registration";
- (n) by inserting next after subsection one of section thirty-three the following new subsection :— Sec. 33.
(Regulations.)
- (1A) A regulation prescribing the fees to be paid for registration pursuant to paragraph (g) of subsection one of this section may prescribe different fees for different classes of cases of registration.

CLEAN