

**PHYSIOTHERAPISTS REGISTRATION (AMENDMENT)
ACT 1987 No. 274**

NEW SOUTH WALES



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PHYSIOTHERAPISTS REGISTRATION (AMENDMENT) ACT 1987
No. 274

NEW SOUTH WALES



Act No. 274, 1987

An Act to amend the Physiotherapists Registration Act 1945 with respect to the membership of the Physiotherapists Registration Board and in certain other respects. [Assented to 16 December 1987]

See also Health Legislation (Reasons for Decisions) Amendment Act 1987; Optical Dispensers (Amendment) Act 1987.

Physiotherapists Registration (Amendment) 1987

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the **Physiotherapists Registration (Amendment) Act 1987**.

Commencement

2. (1) Except as provided by subsection (2), this Act shall commence on a day to be appointed by proclamation.

(2) Section 4 and Schedule 2 shall commence on the date of assent to this Act.

Amendment of Act No. 9, 1945

3. The **Physiotherapists Registration Act 1945** is amended as set out in Schedule 1.

Savings and transitional provisions

4. Schedule 2 has effect.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 2 (**Definitions**)—

(a) Before the definition of “Board”, insert:

“Appointed member” means a member referred to in section 5 (2) (b).

(b) After the definition of “Board”, insert:

“Elected member” means a member referred to in section 5 (2) (a).

(c) Definition of “Physiotherapy”—

Omit “or alleviating”, insert instead “, alleviating or preventing”.

(d) After the definition of “Proclaimed method”, insert:

“Public hospital” includes an area health service established in accordance with the **Area Health Services Act 1986**.

(2) Section 5—

Omit the section, insert instead:

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SCHEDULE 1—AMENDMENTS—*continued*

Membership of the Board

5. (1) The Board shall consist of 12 members.

(2) Of the members—

(a) 3 shall be physiotherapists elected by physiotherapists; and

(b) 9 shall be appointed by the Governor and shall comprise—

(i) 2 physiotherapists nominated by the Australian Physiotherapists Association, New South Wales Branch;

(ii) a physiotherapist engaged in physiotherapy nominated by the Cumberland College of Health Sciences;

(iii) a barrister or solicitor nominated by the Minister;

(iv) an officer of the Department of Health nominated by the Minister; and

(v) 4 persons nominated by the Minister.

(3) Section 10—

Omit the section, insert instead:

President and Deputy President

10. (1) Of the members of the Board, one member (being a physiotherapist) shall, in and by any relevant instrument of appointment as such a member, or by another instrument executed by the Governor, be appointed as President of the Board and one member shall be so appointed as Deputy President of the Board.

(2) The Deputy President, during the absence or illness of the President, shall act in the office of the President and, while so acting, has (except as provided by sections 21A and 21B (2)) all the powers, authorities, duties and functions of the President.

(3) The President or, in the absence of the President, the Deputy President or, in the absence of both the President and the Deputy President, another member elected to chair the meeting by the members present shall preside at a meeting of the Board.

(4) The person presiding at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

(5) The Governor may remove a member from the office of President or Deputy President at any time.

(6) A person vacates office as President or Deputy President if the person—

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SCHEDULE 1—AMENDMENTS—*continued*

- (a) is removed from that office by the Governor;
 - (b) resigns that office by instrument in writing addressed to the Minister; or
 - (c) ceases to be a member.
- (4) Section 14 (**Quorum etc.**)—
- Section 14 (1)—
- Omit “four”, insert instead “7”.
- (5) Section 17A—
- After section 17, insert:
- Committees**
- 17A. (1) The Board may establish advisory committees to make recommendations to it in connection with the exercise and discharge of any of its powers, authorities, duties and functions.
- (2) It does not matter that any or all of the members of a committee are not members of the Board.
- (3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings shall be as determined by the Board or (subject to any determination of the Board) by the committee.
- (6) Section 24 (**Removal of name on account of misconduct etc.**)—
- (a) Section 24 (1)—
- Omit “the Board may remove his name from the register or suspend his registration for such period as the Board shall think fit.”, insert instead:
- the Board may—
- (d) caution or reprimand the person;
 - (e) order that the person seek medical or psychiatric treatment or counselling;
 - (f) direct that such conditions, relating to the person’s practising physiotherapy, as it considers appropriate be imposed on the person’s registration;
 - (g) order that the person complete such educational courses as are specified by the Board;
 - (h) order that the person report on his or her physiotherapy practice at the times, in the manner and to the persons specified by the Board;

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- (i) order that the person seek and take advice, in relation to the management of his or her physiotherapy practice, from such persons as are specified by the Board;
 - (j) by its order impose a fine on the person of an amount, not exceeding 40 penalty units, specified in the order;
 - (k) suspend the person's registration for such period as the Board thinks fit; or
 - (l) remove the person's name from the register,
- or exercise any combination of the powers conferred on it by paragraphs (d)–(l).
- (b) Section 24 (1A)—
Omit section 24 (1A) (e) and (f), insert instead:
- (e) by any act or omission, demonstrates a lack of adequate knowledge, experience, skill, judgment or care in the practice of physiotherapy; or
 - (f) has been guilty of habitual drunkenness or of addiction to any deleterious drug,
- or engages in any other improper or unethical conduct relating to the practice of physiotherapy.
- (c) Section 24 (6)–(8)—
Omit the subsections.
- (7) Sections 24A–24E—
After section 24, insert:
- Professional Standards Committees**
- 24A. (1) There shall be Professional Standards Committees.
- (2) The Committees shall have and may exercise and perform, in accordance with such terms of reference as are determined generally or in any particular case by the Board, the jurisdiction and the powers, authorities, duties and functions conferred or imposed on them by or under this Act.
- (3) When the Board decides to refer a matter to a Committee, the Board shall appoint 3 persons to sit as the Committee for the purpose of investigating the matter.
- (4) For the purposes of investigating a matter, a Committee shall consist of—
- (a) 2 physiotherapists; and

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- (b) one lay person (that is, a person who is neither a physiotherapist nor qualified to apply to be registered as a physiotherapist) appointed from among a panel of lay persons for the time being nominated by the Minister,

one of whom shall be appointed by the Board as chairperson of that Committee.

(5) A person may be appointed to sit on a Committee whether or not the person is a member of the Board.

(6) One or more Committees may investigate more than one matter at the same time.

(7) A member of a Committee, while sitting on the Committee, is entitled to be paid by the Board at the same rate as a witness who gives expert evidence in the Supreme Court.

Proceedings before Professional Standards Committees

24B. Proceedings before a Professional Standards Committee shall be conducted in accordance with the regulations.

Decisions of Professional Standards Committees

24C. (1) A decision supported by at least 2 members of a Professional Standards Committee on any question arising during its investigation of a matter is the decision of the Committee.

(2) A Professional Standards Committee shall, as soon as practicable after concluding an investigation, furnish its report to the Board.

Reference of matters to Professional Standards Committees

24D. The Board may, despite the other provisions of this Act, refer to a Professional Standards Committee for investigation and report—

- (a) an application to be registered as a physiotherapist or for the grant of a certificate of conditional registration;
- (b) an application, under section 21C, to practise physiotherapy;
- (c) the question of whether the Board should, on the grounds set out in section 23 (1) (b) or (c), cause the name of a physiotherapist to be removed from the register; or

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- (d) the question of whether a physiotherapist is guilty of misconduct in a professional respect.

Appeals

24E. (1) Any person aggrieved by a decision of the Board under section 24 (1) concerning the person may, within 3 months after the date on which notice of the decision is given to the person by the secretary, appeal against the decision to the District Court.

(2) Any person aggrieved by the failure of the Board or other authorised person—

- (a) to register the person as a physiotherapist;
- (b) to grant the person a certificate of conditional registration;
or
- (c) to approve, under section 21C, of the person practising physiotherapy,

may, within 6 months after the date of the relevant application, appeal against the failure to the District Court.

(3) An appeal shall be made in accordance with the rules of court and shall be in the nature of a new hearing.

(4) The District Court may make such order as it thinks fit which shall be final and without appeal.

(5) The Board shall give effect to the District Court's order.

(8) **Section 26 (Unregistered person not to practise as or hold out to be a physiotherapist)—**

(a) Section 26 (2) (b)—

After "nurse", insert "(being a nurse whose name is entered in the Register of Nurses kept under the Nurses Registration Act 1953)".

(b) Section 26 (4)—

Omit "two hundred dollars", insert instead "10 penalty units".

(9) **Section 26A (Physiotherapists and holders of certificates of conditional registration not to perform certain acts)—**

Omit the section.

(10) **Section 29 (Penalty for offences etc.)—**

Omit "one hundred dollars", insert instead "5 penalty units".

*Physiotherapists Registration (Amendment) 1987*SCHEDULE 1—AMENDMENTS—*continued*(11) Section 32 (**Fees and penalties**)—

Section 32 (2)—

After “shall” where firstly occurring, insert “. except as provided by section 32A,”.

(12) Section 32A—

After section 32, insert:

Physiotherapy Education and Research Account

32A. (1) The Board shall establish a Physiotherapy Education and Research Account.

(2) Such amounts as are determined by the Minister from time to time shall be paid by the secretary from fees payable under this Act or the regulations into the Physiotherapy Education and Research Account.

(3) The Board may appropriate amounts from the Physiotherapy Education and Research Account for or towards any one or more of—

- (a) physiotherapy education;
- (b) education or research for any public purpose connected with the practice of physiotherapy;
- (c) the publication and distribution of information concerning this Act and the regulations; or
- (d) meeting administrative expenditure incurred with respect to the Account and the purposes for which it is used,

or any related purpose.

(4) An appropriation under subsection (3) shall not be made unless it is authorised by a resolution supported by at least 8 members.

(13) Section 33 (**Regulations**)—

(a) Section 33 (1) (c)—

After section 33 (1) (d), insert:

- (c) regulating the circumstances in which a physiotherapist or the holder of a certificate of conditional registration, for fee or reward, may or shall not—
 - (i) diagnose or attempt to diagnose any abnormal condition of the human body;
 - (ii) prescribe any diet for any person; or
 - (iii) prescribe any drug or medicine for internal use by any person;

*Physiotherapists Registration (Amendment) 1987***SCHEDULE 1—AMENDMENTS—*continued*****(b) Section 33 (1) (h)—**

After “physiotherapist”, insert “or a corporation engaged or associated in the practice of physiotherapy”.

SCHEDULE 2—SAVINGS AND TRANSITIONAL PROVISIONS

(Sec. 4)

Definitions

1. In this Schedule—

“new Board” means the Physiotherapists Registration Board under the Physiotherapists Registration Act 1945 on the commencement of this Act;

“old Board” means the Physiotherapists Registration Board under the Physiotherapists Registration Act 1945 before the commencement of this Act.

Members of old Board

2. (1) A person who, immediately before the commencement of this Act, held office as an elected member of the old Board under section 5 (1) (b) of the Physiotherapists Registration Act 1945 shall (without further election) be deemed to have been duly elected as a member of the new Board under section 5 (2) (a) of the Physiotherapists Registration Act 1945, as amended by this Act, and—

(a) shall be deemed to have been so elected—

(i) on the same terms and conditions as those applicable to the person immediately before the commencement of this Act; and

(ii) for the residue of the term of office for which the person so held office; and

(b) is eligible (if otherwise qualified) for election or appointment or re-election or re-appointment under the Physiotherapists Registration Act 1945, as so amended, with effect from the expiration of that term of office or from any subsequent time.

(2) Except as provided by subclause (1), a person who, immediately before the commencement of this Act, held office as a member of the old Board—

(a) shall cease to hold office as such on that commencement; and

(b) is eligible (if otherwise qualified) to be appointed as a member of the new Board.

Appointments etc. before commencement

3. For the purpose only of enabling the new Board to be constituted on or after (but not before) the commencement of this Act, appointments may be made under the Physiotherapists Registration Act 1945, as amended by this Act, and anything else may be done, before that commencement, as if this Act commenced on the date of assent to this Act, but so that no appointment as a member of the new Board as so constituted takes effect before that commencement.

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SCHEDULE 2—SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

First meeting of new Board

4. The Minister for Health shall call the first meeting of the new Board in such manner as the Minister thinks fit.