



ANNO DECIMO

GEORGII V REGIS.

A.D. 1919.

No. 1372.

An Act to make better Provision for the Registration of Medical Practitioners and to regulate the Qualifications for and the Effect of such Registration ; and for other purposes.

[Assented to, November 20th, 1919.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

PART I.

PART I.

PRELIMINARY.

1. This Act may be cited as the "Medical Practitioners Act, 1919." Short title.

2. The provisions of this Act are arranged as follows:—

Arrangement of Act.

PART I.—Preliminary :

PART II.—The Medical Board :

PART III.—Registration and Qualifications therefor :

PART IV.—Miscellaneous :

PART V.—Regulations :

PART VI.—Legal Proceedings.

3. In this Act—

Interpretation.

"Board" means the Medical Board of South Australia constituted by this Act : "Member"

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No. 7 of 1867.

“Member” means member of the Board:

“Minister” means the Chief Secretary:

“President” means President of the Board:

“Public hospital” means a place declared by proclamation under section 2 of the Hospitals Act, 1867, to be a public hospital:

“Register” means the Register of Medical Practitioners kept under this Act:

“Registered” means registered under this Act, and includes deemed to be so registered:

“Registrar” means the Registrar appointed under this Act:

Repeal.

4. The Acts mentioned in the Schedule are hereby repealed.

PART II.

PART II.

THE MEDICAL BOARD.

Constitution of the Medical Board.

5. (1) A Board, to be called “The Medical Board of South Australia,” is hereby constituted, as from the day of the publication in the *Government Gazette*, pursuant to subsection (5) hereof, of the notice of the appointment of the original members thereof.

(2) The Board shall consist of five members, who shall be appointed by the Governor, after being respectively nominated as follows, namely:—

Three shall be nominated by the Minister:

One shall be nominated by the persons registered under this Act and for the time being resident in the State:

One shall be nominated by the Council of the University of Adelaide.

(3) When a vacancy occurs on the Board, whether by the expiration of a member's term of office or otherwise, the Governor shall, after nomination, appoint a member to fill the vacancy. If the member whose seat has become vacant was nominated by the Minister the person to fill the vacancy shall be nominated by the Minister, if by persons registered under this Act, he shall be nominated by the persons so registered, and if by the said Council he shall be nominated by the said Council.

(4) Any nomination to be made by the persons registered under this Act shall be made in manner prescribed.

(5) Notice of the appointment of any member shall be published in the *Government Gazette*, and, subject to section 7, the notice so published shall be conclusive evidence that the member was duly nominated and appointed.

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6. During the period from the passing of this Act until and including the day of the publication in the *Government Gazette*, pursuant to subsection (5) of section 5, of the notice of the appointment of the original members of the Board, the South Australian Medical Board appointed under the Ordinance No. 17 of 1844, and in existence at the passing of this Act, shall discharge and may exercise all the functions, duties, and powers of the Board hereby constituted; and from the day of such publication the said South Australian Medical Board shall cease to exist.

The existing Medical Board to exercise the Board's functions until first members appointed.

7. No person shall be eligible for appointment as a member unless at the time of nomination such person has been registered as a medical practitioner in South Australia for not less than five years.

Qualification for membership of the Board.

8. (1) Each member shall be appointed for a term of two years: Provided that---

Tenure of office.

- I. a member appointed to fill a vacancy caused otherwise than by a retirement of a member on the expiration of his term of office, shall be appointed only for the unexpired portion of the term of the member in whose place he is appointed; and
- II. any retiring member shall hold office until his successor is appointed.

(2) Any person ceasing to be a member by reason of the expiration of his term of office shall be eligible for reappointment.

9. In addition to the retirement of members by the expiration of their terms of office, the seat of a member shall become vacant on—

Casual vacancies.

- (a) the death, lunacy, or insolvency of the member; or the execution by the member of a statutory deed of assignment for the benefit of his creditors; or his compounding with his creditors for less than Twenty Shillings in the Pound; or the conviction of the member of an indictable offence;
- (b) the member's ceasing to be registered under this Act;
- (c) the resignation of the member by notice in writing, posted or delivered to the President, or in the case of the President, to the Minister; or
- (d) the absence of the member from three consecutive meetings of the Board without leave of the Board.

10. (1) If in any case the person or persons, or body, which has the right to nominate a person for appointment as a member, whether as an original or other member, fails to give notice in writing to the clerk of the Executive Council of the nomination within two months after being requested in writing by the said clerk to make such nomination, the Governor may appoint a member without nomination.

Appointment without nomination on failure to nominate.

In

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In the case of the persons registered under this Act, the request to nominate shall be duly made by being published in the *Government Gazette*.

(2) A member appointed pursuant to this section shall be deemed to have been appointed after being nominated by the person or persons, or body, which had the right to nominate.

President.

11. (1) The Governor may annually appoint a member nominated by a majority of the members to be the President of the Board for the year : Provided that if, in any year, no member is so nominated before the first day of February in such year, the Governor may appoint the President for such year without nomination.

(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 the 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.

Quorum.

12. Three members present at a meeting shall constitute a quorum of the Board.

Defects in appointment not to invalidate proceedings of Board.

13. (1) No act or proceeding of the Board shall be invalid or illegal in consequence only of the number of the members of the Board not being complete at the time of such act or proceeding.

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

Registrar.

14. (1) The Board shall appoint a Registrar for the purposes of this Act: Provided that no person shall be appointed to or dismissed from the office of Registrar without the approval of the Minister first obtained.

(2) The Registrar shall act under the control of the Board

Protection of Board and members and others from liability.

15. No matter or thing done or suffered by the Board, or by any member or the Registrar, *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 Registrar or any other person, or the Crown, to any liability in respect thereof.

Annual balance-sheet and audit.

16. (1) The Registrar shall every year, in the month of July, prepare a balance-sheet, showing the income and expenditure of the

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the Board for the period of twelve months ended on the thirtieth day of the preceding month of June, and shall transmit the same to the Minister.

(2) The accounts of the Board shall, once at least in every year, be audited by the Commissioner of Audit, who shall, in respect of such accounts, have all the powers which may be exercised by him under the Audit Act, 1882, and any Act for the time being in force relating to the audit of public accounts. The report of such Commissioner on any such audit shall be transmitted to the Minister.

No. 241 of 1882.

PART III.

PART III.

REGISTRATION AND QUALIFICATIONS THEREFOR.

17. (1) The Registrar shall keep a Register to be called "The Register of Medical Practitioners."

The Register of Medical Practitioners, and mode of registration.

(2) A person shall be registered by the entering in the Register of his name, and such other particulars relating to him as are prescribed.

18. All persons who, immediately before the passing of this Act, were registered under the Acts hereby repealed, shall be registered under this Act, and, subject to section 26, shall be deemed to be so registered as from the passing of this Act.

Practitioners already registered to be registered under this Act.

19. (1) In addition to the persons mentioned in section 18, every person shall be entitled to be registered who proves to the satisfaction of the Board that he—

Qualifications for future registration. Act 471, 1889, Schedule (altered).

- (a) is the holder of a degree in medicine or surgery of any university in the Commonwealth of Australia or the Dominion of New Zealand which is legally authorised to grant such degree; or
- (b) is registered, or possesses a qualification entitling him to be registered, under the Medical Acts of the Parliament of the United Kingdom, or any Act amending or substituted for those Acts, or any of them; or
- (c) has passed through a regular graded course of medical study in a school of medicine in some part of the British Empire or some other country, such course being of not less than five years' duration, and being recognized by the Board as not lower in standard than that required in the State, and—

- 1. has received, after due examination, from a university, college, or other body, duly recognized for the purpose

Of. Imp. Act, 49 and 50, Vic., c. 48, s. 12.

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purpose in such part or country, a degree or diploma, certifying to his ability to practise medicine or surgery, and

II. is by law entitled to be registered, or to practise, as a medical practitioner in such part or country.

Reciprocity.
Cf. *ibid.*, s. 17.

(2) Notwithstanding anything in this Act, the Board, in considering an application to be registered, shall not be required to recognize any degree, diploma, or other qualification granted in any country, not being part of the British Empire, unless in such country a person registered under this Act is granted rights and advantages equal to those granted in such country to the holders of such degree, diploma, or qualification.

Application for registration and proceedings thereon.
Ordinance No. 17 of 1844, s. 2.
Applicant and other persons may be summoned.

20. (1) Any person desiring to be registered shall submit to the Board proof of the qualification upon which he relies.

(2) The Board shall require the attendance before it of the person applying to be registered, unless he is specially excused by the Board, and may require the attendance of any other persons.

Power to examine on oath.

(3) The Board may examine any person upon oath, affirmation, or declaration, and for such purpose any member may administer an oath, affirmation, or declaration.

Effect of summons by the Board.

(4) A summons issued by the Board requiring the attendance of any person or the production of any documents, and signed by the Registrar, shall have the same effect as a subpoena *ad testificandum* or *duces tecum*, as the case may be, issued out of the Supreme Court in a civil action; and obedience thereto, or non-observance thereof, or refusal to give evidence, shall be enforced or punished by a Judge of the Supreme Court in chambers, in the same manner as in the case of disobedience or non-observance of a subpoena issued out of the said Court, or refusal to give evidence before the said Court.

Discretion of the Board.

(5) If not satisfied that the applicant is entitled to be registered the Board may refuse the application or adjourn the same for further consideration.

Appeal from the Board.

21. (1) If any person who applies for registration is dissatisfied with the decision of the Board, it shall be lawful for him, by motion to the Supreme Court, within three months of the giving of such decision, to apply to such Court for an order directing the Board to register him.

(2) The Court, or a Judge thereof, may order that the person applying be registered, or that he be registered conditionally or upon terms, or may decline to make such or any order.

Registration and renewal fees.
Ordinance No. 17, of 1844, s. 3 (altered).

22. (1) No person shall be registered until he has paid to the Registrar a registration fee of One Guinea: Provided that any person entitled to be registered pursuant to section 18 shall be registered without payment of a fee.

(2) Notwithstanding

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(2) Notwithstanding his registration, or anything in this Act, no person, unless registered pursuant to section 18, shall, after the year nineteen hundred and twenty, be deemed, at any time in any year, to be registered, until he has paid a renewal fee of One Guinea for such year, unless on registration or afterwards he has paid a fee of Five Guineas. If paid on registration, such fee of Five Guineas shall be a commutation of the registration fee and all renewal fees; if paid after registration it shall be a commutation of all renewal fees.

New.

23. (1) When any person has paid the registration fee and become registered, the Registrar shall deliver to him a certificate of registration in the prescribed form.

Certificate of registration.
Ordinance No. 17 of 1844, s. 2.

(2) On application made to him at any time and on payment of the prescribed fee, the Registrar shall issue to any registered person a duplicate certificate of his registration.

24. (1) When a person has applied to be registered, the President, or, in his absence from the City of Adelaide, any other member of the Board, upon being satisfied that such person is entitled to be registered, and upon payment of the registration fee required by section 22, may grant to such person a provisional certificate of registration in the prescribed form.

Provisional certificate may be granted.

(2) When a person has obtained a provisional certificate he shall be deemed to be registered under this Act until—

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

which in no case shall be later than three months from the granting of such certificate: Provided that if the Board, before the date so stated or fixed, have reason to believe that such person is not entitled to be registered, they may, without prejudice to his application to be registered, cancel his provisional certificate; and such person shall thereupon cease to be deemed to be registered.

(3) If a person to whom a provisional certificate has been granted becomes registered, his registration shall, unless otherwise decided by the Board, date from the granting of his provisional certificate.

25. Every registered person who obtains any degree or qualification other than that in respect of which he is registered, shall be entitled, on payment of the prescribed fee, to have such other degree or qualification inserted in the Register, in substitution for or in addition to the qualification therein stated.

Register may be altered to insert new or additional qualifications.

26. The name of any person—

- (a) whose registration has been obtained by fraud or misrepresentation; or

Cancellation of registration for fraud and on other grounds.

- (b) whose

Cf. Act, 471, 1889, s. 6.

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s. 9.

- (b) whose qualification has been withdrawn or cancelled by the university, college, or other body by which it was conferred, or by the General Council of Medical Education and Registration of the United Kingdom; or
- (c) who either before or after his registration, has been convicted of any felony or misdemeanor, or of any offence which, if committed in the State, would be a felony or misdemeanor; or
- (d) who is deemed by the Board to have been guilty of infamous conduct in any professional respect—

may be removed from the Register by order of the Supreme Court or a Judge thereof, on application by motion made in that behalf by the Board or the Registrar, and such person shall upon the removal of his name cease to be registered: Provided that the name so removed may be restored by order of the Supreme Court and thereupon such person shall again be a registered person.

Correction of Register.

27. (1) The Registrar shall from time to time strike out in the Register the names of all registered persons who have died, and shall make such alterations and amendments in the Register as the Board from time to time directs, for the purpose of making the same an accurate record of the names, addresses, and qualifications of all persons for the time being registered.

Registrar-General of Births, &c., to notify death of a registered person.

(2) To assist the Registrar in the discharge of his duties under this section, the Registrar-General of Births and Deaths, on receiving notice of the death of any person registered under this Act, shall forthwith inform the Registrar in writing of such death.

Register to be open to inspection.

28. The Register shall be kept in the office of the Registrar, and shall at all times be open to inspection by any person on payment of the prescribed fee.

Copy of Register to be published annually.
Act 471, 1889, s. 4.

29. (1) A copy of the Register shall, in the month of January in each year, be sent by the Board to the Minister, and shall by him be published in the *Government Gazette*.

(2) Any copy of the Register appearing in the *Government Gazette* shall in all Courts and before all persons be *prima facie* evidence that the persons therein specified, and no others, are registered: Provided that a certificate purporting to be signed by the Registrar, and stating that, at the date mentioned therein, a person was or was not registered shall be *prima facie* evidence of the truth of such statement.

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PART IV.

MISCELLANEOUS.

30. Wherever in any other Act now or hereafter in force, or in any other instrument, the expression "legally qualified medical practitioner" or "duly qualified medical practitioner" is used, such expression shall, from the passing of this Act, unless a contrary intention clearly appears, be deemed to mean a person registered under this Act.

References in other Acts to legally or duly qualified medical practitioner.

31. Every person registered under this Act shall be entitled to sue in any Court of competent jurisdiction for the recovery of his fees or other remuneration for professional services of any kind; and no person other than a person so registered, or a person who had practised as a surgeon, physician, or medical practitioner in the State for a period of five years at least before the sixth day of December, eighteen hundred and eighty-nine, shall be entitled to sue or counter-claim for or to set-off or otherwise recover any charge or remuneration for any medical or surgical advice, attendance, service, or operation.

Only registered practitioners and certain other persons may sue for fees for professional services.

32. (1) No person other than a person registered under this Act shall be competent to hold, or shall hold, any appointment (whether honorary or other)—

Only registered persons to hold certain appointments.

- (a) as a medical officer in any public hospital, or
- (b) as a medical officer of health, or
- (c) as a medical officer in any passenger or other vessel registered in the State and leaving any port therein.

Any person who holds, or purports to hold, any such appointment, contrary to this section, shall for such offence be liable to a penalty not exceeding Twenty Pounds.

(2) Subject as provided by section 33, no certificate by a medical practitioner, required by any Act, shall, if signed in the State, be valid unless the person signing the same was, at the time of so signing, registered under this Act, or had practised as a surgeon, physician, or medical practitioner in the State for a period of five years at least before the sixth day of December, eighteen hundred and eighty-nine.

33. No person shall sign any certificate of cause of death required by section 20 of the Registration of Births and Deaths Act, 1874, (as enacted by section 5 of the Births, Marriages, and Deaths Registration Amendment Act, 1907,) unless he—

With certain exceptions, only a registered person to give certificate of cause of death.

- (a) is a person registered under this Act, or
- (b) had practised as a surgeon, physician, or medical practitioner in the State for a period of five years at least before the sixth day of December, eighteen hundred and eighty-nine:

471, 1889, s. 5 (part).

Provided

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Provided that this section shall not apply where there is no person so registered, and no person who had practised as aforesaid, residing within a distance of five miles of the place where the death occurred.

Burial not to take place without certificate of registered person or order of coroner.
Ibid. s. 5 (part).

34. No burial of a deceased person shall take place until—

(a) a person registered under this Act, or a person who had practised as a surgeon, physician, or medical practitioner in the State for a period of five years at least before the sixth day of December, eighteen hundred and eighty-nine, has signed and given a certificate of the cause of death of such deceased person, or

No. 332 of 1884.

(b) a coroner of the State, within the meaning of the Coroner's Act, 1884, has made and signed an order for the burial:

Provided that this section shall not apply where there is no person so registered, and no such coroner, residing within a distance of twenty-five miles of the place where such deceased person died.

Unregistered persons advertising or holding themselves out as medical practitioners.
Cf. Dentists Act, 1904, s. 9.

35. (1) No person, not being registered under this Act, shall either directly or indirectly, by any name, word, or letter, or by any title or designation, whether expressed in words or by letters, or partly in one and partly in the other, or by any sign, device, article, or other thing whatsoever, or by any other means whatsoever, whether—

(a) by having the same attached to or exhibited on, in, at, or near, his place of business or residence, or any other place whatsoever, or

(b) in any letter, newspaper, magazine, book, programme, circular, handbill, placard, card, letter paper, billhead, receipt form, or invoice, or any document or paper used in connection with any business, practice, or profession, or

(c) in any other way whatsoever,—

advertise or hold himself out as being, or pretend to be a doctor of medicine, licentiate in medicine or surgery, master in surgery, bachelor of medicine or surgery, doctor, legally or duly qualified or registered medical practitioner, accoucheur, or other medical or surgical practitioner, or the holder of any other degree, diploma, licence, or certificate in medicine or surgery.

Penalty in case of breach.

Act 471, 1880, s. 3.

(2) Every person who, for himself or as assistant, servant, agent, or manager, does or permits any act, matter, or thing in any way contrary to this section, shall be liable for each and every such offence to a penalty of not less than Five Pounds and not more than Fifty Pounds, or to a term of imprisonment not exceeding six months, with or without hard labor: Provided that any person who had practised medicine or surgery continuously in the State for a term of not less than five years previous to the sixth day of
December

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December, eighteen hundred and eighty-nine, shall not be liable to any penalty under this section by reason only of his using, or continuing to use, the title of "doctor."

36. Every person who exhibits or publishes, or causes, permits, or suffers to be exhibited or published, any letter, or any circular, handbill, placard, card, letter paper, billhead, receipt form, or invoice, or any document or paper to be used in connection with any business, practice, or profession, or other advertisement of any kind, whereby any person advertises or holds himself out contrary to any provision of section 35, or attempts so to do, shall be liable for every such offence to a penalty of not less than One Pound and not exceeding Fifty Pounds: Provided that this section shall not apply to any newspaper or magazine proprietor or printer publishing such advertisement before written notice to him from the Registrar that such advertisement is contrary to the said section.

Person advertising contrary to section 35 liable to penalty.
W.A. 36, 1894, s. 24.

37. Any person who—

- I. makes or causes to be made any falsification in the Register or in any matter relating to the Register; or
- II. knowingly makes any false statement upon any examination before the Board, or in any document to be used in evidence before, or to be submitted to, the Board; or
- III. utters or puts off, or attempts to utter or put off, as true before the Board any false, forged, or counterfeit degree, diploma, licence, certificate, or other document or writing; or
- IV. procures or attempts to procure himself or any other person to be registered by making or producing, or causing to be made or produced, any false or fraudulent statement, declaration, or representation, either verbal or in writing; or
- V. personates or represents himself as being the person referred to in any degree, diploma, licence, certificate, document, or writing presented to the Board, or in any certificate granted under this Act or under the Acts hereby repealed;

Penalty for falsifying Register, or making false statement, or uttering false diploma.
W.A. 36, 1894, s. 21.
Cf., S.A. 471, 1889, s. 7.

or who—

- I. fraudulently or by false representation obtains any certificate of registration under this Act; or
- II. forges, alters, or counterfeits any such certificate or any certificate under the Acts hereby repealed; or
- III. utters or uses or attempts to utter or use any such forged certificate, knowing the same to have been forged; or

Or fraudulently obtaining or forging certificate of registration.

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- iv. falsely advertises or publishes himself as having obtained any such certificate, or as being registered under this Act, or permits any such advertisement or publication,

shall be guilty of a misdemeanor, and be liable to imprisonment, with or without hard labor, for any term not exceeding three years.

Financial.
17 of 1844, s. 3 (part).

38. All moneys received by the Board under this Act shall be paid to the Treasurer for the public uses of the State.

PART V.
Regulations.

PART V.
REGULATIONS.

39. The Governor may, on the recommendation of the Board, make regulations prescribing all matters which by this Act are contemplated, or permitted to be so prescribed, or which may be necessary or convenient to be prescribed for giving effect to this Act, including regulations for the following, among other purposes:—

- i. prescribing the manner in which nominations of members of the Board are to be made by the persons registered under this Act:
- ii. regulating the meetings and proceedings and the conduct of the business of the Board:
- iii. prescribing the duties of the Registrar:
- iv. regulating the manner of keeping and the form of the Register:
- v. prescribing forms to be used and fees to be paid, either in addition to or in substitution for any forms and fees prescribed by this Act.

PART VI.

PART VI.
LEGAL PROCEEDINGS.

Costs in Supreme
Court proceedings.

40. The Supreme Court, or a Judge thereof, making or declining to make an order in any matter under this Act, may make any order and give any directions as to the costs thereof which it or he thinks proper.

Summary proceedings
for offences.

41. All proceedings in respect of offences against this Act, not being indictable offences, shall be disposed of summarily.

42. There

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42. There shall be an appeal in respect of proceedings in Appeal.
respect of offences against this Act.

43. In the event of an appeal in respect of proceedings in Special case.
respect of offences against this Act, a special case may be stated.

In the name and on behalf of His Majesty, I hereby assent to
this Bill.

H. L. GALWAY, Governor.

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Section 4.

THE SCHEDULE.

Number.	Title.
No. 17 of 1844	An Ordinance to Define the Qualifications of Medical Practitioners in this Province for certain purposes
No. 193 of 1880	The Medical Act, 1880
No. 471 of 1889	The Medical Act Amendment Act, 1889.