



ANNO NONO

GEORGI VI REGIS.

A.D. 1945.

No. 38 of 1945.

An Act to provide for the registration of physiotherapists,
and for other matters incidental thereto.

[Assented to 17th January, 1946.]

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.
PRELIMINARY.**

- Short title.** **1.** This Act may be cited as the "Physiotherapists Act, 1945".

- Commencement
of Act.** **2.** This Act shall come into operation on a day to be fixed
by proclamation.

- Arrangement
of Act.** **3.** The provisions of this Act are arranged as follow :—
 - PART I.—Preliminary.
 - PART II.—Administration.
 - PART III.—Registration of Physiotherapists.
 - PART IV.—Miscellaneous.

- Interpretation.** **4.** In this Act, unless inconsistent with the context or
subject matter—
 - "the board" means The Physiotherapists Board of South
Australia constituted under this Act :
 - "chairman" means chairman of the board :

“legal practitioner” means person holding a practising certificate under the Legal Practitioners Act, 1936:

“medical practitioner” means legally qualified medical practitioner:

“member” means member of the board and includes the chairman:

“physiotherapy” means the external application to the human body for the purpose of curing or alleviating any abnormal condition thereof, of manipulation, massage, muscle re-education, electricity, heat, light, or any proclaimed treatment:

“proclaimed treatment” means any treatment which the Governor by proclamation declares to be physiotherapy for the purposes of this Act:

“the register” means the register of physiotherapists kept pursuant to this Act:

“registered physiotherapist” means a person registered under this Act:

“the registrar” means the registrar appointed under this Act.

5. The Governor may by proclamation—

Proclaimed
treatments.

(a) declare any treatment applicable to the human body for the purpose of curing or alleviating any abnormal condition thereof to be physiotherapy for the purposes of this Act:

(b) revoke or vary any proclamation for the time being in force under this section.

6. (1) A medical practitioner shall not be required to be registered under this Act.

Exemption of
medical
practitioners
and other
persons.

(2) A person shall not be required to be registered under this Act by reason only of the fact that—

(a) he practises face massage or scalp massage for cosmetic purposes only: or

(b) he applies massage to persons engaged in playing or training for any game, sport or athletics, for the purpose of training such persons or alleviating injuries received by such persons in the course of such playing or training.

(3) A person who practises as a chiropodist shall not be required to be registered under this Act by reason only of the fact that he applies physiotherapy to any part of the human body below the knee.

(4) A hairdresser registered under the Hairdressers Registration Act, 1939, shall not be required to be registered under this Act by reason only of the fact that he practises hairdressing within the meaning of that Act.

(5) Subsections (2) and (3) of this section shall not exempt any person from the provisions of this Act relating to holding out.

Patients of
registered
physio-
therapists.

7. Notwithstanding any provision of this Act or anything done under the authority of this Act, it shall be lawful and shall not be unprofessional conduct for a registered physiotherapist to treat patients who have not been introduced or sent to him by a medical practitioner.

Treatment at
clinics and
hospitals.

8. This Act shall not render it unlawful for an unregistered person, being the proprietor of a clinic or hospital, to provide physiotherapeutic treatment at that clinic or hospital, if such treatment is administered by or under the personal supervision of a registered physiotherapist.



PART II.

ADMINISTRATION.

The Physiotherapists Board of South Australia.

Establishment
of board.

9. (1) There shall be established a board to be called "The Physiotherapists Board of South Australia".

(2) The board shall be a body corporate with perpetual succession and a common seal, and shall have power to purchase, take, hold and dispose of land and other property for the purposes of this Act, and may sue and be sued by the name of "The Physiotherapists Board of South Australia".

(3) The board shall consist of five members appointed or elected in accordance with this Act.

(4) The board shall be deemed to be established on the day when the notice of the appointment of the first members thereof is published in the *Gazette*.

10. The members of the board to hold office during the first two years after its establishment shall be appointed by the Governor on the nomination of the Minister. The chairman shall be a legal practitioner; one member shall be a medical practitioner and three shall be persons engaged in the practice of physiotherapy as a means of livelihood.

First members
of the board.

11. (1) As from the end of the second year after the establishment of the board, the board shall consist of a legal practitioner, who shall be the chairman, a medical practitioner and three registered physiotherapists.

Subsequent
members of
the board.

(2) The chairman and the medical practitioner shall be appointed by the Governor on the nomination of the Minister.

(3) Of the three registered physiotherapists one shall be appointed by the Council of the University of Adelaide, and two shall be elected in accordance with the regulations by registered physiotherapists.

12. (1) The first members of the board and any member appointed in place of any of them on the occurrence of a casual vacancy shall hold office for two years as from the establishment of the board.

Term of
office.

(2) Every subsequent member of the board shall, except as provided in this Act, hold office for three years.

(3) If at the expiration of the term of office of a member his successor has not been appointed or elected, that member shall remain in office until his successor is appointed or elected; but the term of office of the successor shall be reckoned from the time when the term of office of his predecessor would have expired in the usual course.

13. (1) Upon the occurrence of a casual vacancy on the board a person shall be appointed or elected to the vacancy in the same manner as the member whose seat has become vacant.

Appointments
to casual
vacancies.

(2) A person appointed or elected to a casual vacancy on the board shall hold office for the balance only of the term of the member in whose place he was appointed or elected.

14. (1) Every appointment or election of a member (other than a member of the first board or a member appointed to fill a casual vacancy) shall be made or held during the month preceding the last day of the term of his predecessor, and shall take effect as from the day following that last day.

Time and
mode of
elections and
appointments.

(2) Every appointment or election of a member to fill a casual vacancy shall be made or held as soon as possible after the casual vacancy has occurred.

(3) An appointment or election shall not be invalid by reason only of any delay in making or holding it.

(4) As soon as possible after the appointment or election of a member of the board the registrar shall give written notice to the clerk of the Executive Council of the name of the person elected or appointed.

(5) If, within two months after the occurrence of a vacancy on the board, a person is not duly elected or appointed to fill that vacancy, the Governor may, if he thinks it expedient to do so, appoint a legal or medical practitioner or a registered physiotherapist (according to the nature of the vacancy) to fill the vacancy, and every person so appointed shall hold office as if he had been duly elected or appointed at the proper time.

(6) The clerk of the Executive Council shall cause notice of every appointment and election of a member of the board to be published in the *Gazette*.

(7) Any person ceasing to be a member by reason of the expiration of his term of office shall be eligible for re-appointment or re-election.

The chairman.

15. (1) The chairman shall preside at every meeting of the board at which he is present. In the absence of the chairman from any meeting, another member, chosen for the purpose by the majority of the members present and voting, shall preside.

(2) The person presiding at a meeting shall have a casting vote as well as a deliberative vote.

Casual vacancies.

16. If a member of the board—

- (a) dies ;
- (b) resigns by written notice given to the Minister ;
- (c) ceases to reside in South Australia ;
- (d) becomes bankrupt, makes an assignment or executes a deed of arrangement, for the benefit of his creditors, or makes a composition with his creditors for less than twenty shillings in the pound ;
- (e) absents himself without permission of the board from four consecutive meetings of the board and is declared by resolution of the board to have forfeited his seat ;

(f) is removed from the board by the Governor pursuant to this Act ;

(g) ceases to hold the qualification which by section 10 or 11 of this Act he is required to hold,

his seat shall become vacant.

17. The Governor may remove any member of the board from his office for insanity, neglect of duty, incapacity, dishonourable conduct, or other cause deemed sufficient by the Governor.

Removal of members from board.

18. Three members shall constitute a quorum of the board.

Quorum.

19. (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.

Defects in appointment not to invalidate proceedings of board.

(2) All acts and proceedings of the board shall, notwithstanding the subsequent discovery of any defect in the election or 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 elected or 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.

20. The members of the board shall be entitled to receive out of the funds of the board such remuneration for their services and such travelling and other expenses as are approved by the Governor.

Remuneration of members.

21. (1) The board may purchase or take on lease any land and buildings required for the offices of the board.

Powers of board with respect to property.

(2) The board may sell, demise, let, exchange, or mortgage any real or personal property vested in it.

22. The board may borrow money for the provision of offices and furniture and for preliminary expenses.

Borrowing powers.

23. (1) The first meeting of the board shall be convened by the Minister and thereafter the meetings of the board shall be convened by the registrar under the instructions of the board, or in accordance with the regulations, and shall be held at times and places determined by the board.

Meetings of board.

(2) Subject to the regulations the business of the board shall be conducted in such manner as the board determines.

Registrar and
officers.

24. (1) The board shall appoint a registrar and may appoint any other officers whom the board deems it necessary to appoint for the purposes of this Act.

(2) The registrar and officers shall act under the control of the board and shall receive such remuneration from the funds of the board as the board determines.

Accounts,
balance-sheet.

25. (1) The registrar shall in the month of July in each year prepare—

(a) an income and expenditure account showing the money received and paid by the board during the period of twelve months ended on the thirtieth day of the preceding month of June ; and

(b) a balance-sheet showing the assets and liabilities of the board on that day.

(2) A copy of the said account and balance-sheet shall be kept at the office of the board ; and any registered physiotherapist shall be entitled on demand to inspect the account and balance-sheet without payment.

(3) The accounts and balance-sheet of the board shall be audited annually by the Auditor-General, for which audit the board shall pay to the Treasurer a reasonable fee.

PART III.

REGISTRATION OF PHYSIOTHERAPISTS.

The Register of Physiotherapists.

The Register
of Physio-
therapists.

26. (1) The registrar shall keep a register to be called the "Register of Physiotherapists" for the registration of persons as physiotherapists under this Act.

(2) A person shall be registered by entering in the register his name and such other particulars relating to him as are required by this Act, prescribed by regulations, or directed by the board.

27. (1) A true copy of the register, certified by the registrar to be a true copy, shall in the month of January in every year be sent to the Minister; and the Minister shall forthwith publish in the *Gazette* at the expense of the board the names and addresses of all physiotherapists mentioned in the register, and such other particulars as he deems fit.

Publication of register.

(2) Any person may inspect the register on payment to the board of a fee of one shilling.

28. (1) The registrar shall, at all times, keep the register in such manner that it shows in alphabetical order according to surnames, the names of all registered physiotherapists, their addresses, the dates of registration, the descriptions and the dates of the qualifications in respect of which they are registered, and such other particulars as the board directs or as are prescribed by regulations.

Mode of keeping register.

(2) The register shall also show the firm name, business name, or other name or style under which each registered physiotherapist carries on business.

29. The registrar shall, from time to time—

Alterations in register.

- (a) insert in the register any alterations which come to his knowledge in the name, address, or particulars of any person registered therein; and
- (b) erase from the register the name of every deceased person; and
- (c) erase from the register the name of any person de-registered pursuant to this Act; and
- (d) insert in the register a note of the suspension of the registration of any person; and
- (e) correct any clerical error in the register.

In the execution of these duties the registrar shall act in each case on any evidence which appears to him to be sufficient, or on the direction of the board.

30. Every registered physiotherapist who obtains any degree diploma or qualification other than that in respect of which he is registered shall be entitled, on application, to have such other degree, diploma, or qualification inserted in the register, in substitution for or in addition to the qualification therein stated.

Additional qualifications.

31. When any person has become registered, the registrar shall deliver to him a certificate of registration in the form prescribed by regulations.

Certificate of registration.

De-registration
and suspension.

32. (1) The board may de-register any person—

- (a) who applies to the board in writing to de-register him ; or
- (b) whose registration has been obtained by fraud or misrepresentation ; or
- (c) who has ceased to possess or does not possess the qualification in respect of which he was registered ; or
- (d) who, owing to mental defect is proved to the board to be no longer capable of practising as a physiotherapist ; or
- (e) who is twelve months in arrear in the payment of any subscription payable by him to the board under this Act.

(2) The board may de-register, or suspend for such period as it deems proper the registration of, any person who—

- (a) has been found guilty by the board of unprofessional conduct ; or
- (b) has been convicted of any offence against this Act or of any offence triable in the Supreme Court.

Re-registration.

33. If the board is satisfied that any person who has been de-registered still has the necessary qualifications for registration and that it is just to re-register him, it may re-register him.

Delivery of
certificate on
de-registration.

34. (1) Any person who is de-registered or whose registration is suspended shall, within fourteen days after service on him of a notice signed by the registrar demanding the return of his certificate of registration surrender that certificate to the board for cancellation, or as the case may be, for indorsement thereon of a memorandum of the suspension.

(2) Any person who fails to comply with a notice under this section shall be guilty of an offence and liable to a fine not exceeding two pounds for every day after the said period of fourteen days during which the certificate is not surrendered.

Registration of Physiotherapists.

Obligation to
register.

35. (1) After the expiration of six months from the commencement of this Act a person who is not registered under this Act shall not—

- (a) carry on the practice of physiotherapy ;

(b) by any means whatsoever hold himself out as being a "masseur", "physiotherapist" "physiotherapeutist", or "physical therapist or therapist" or as being registered under this Act, or as being competent or willing to practise or administer physiotherapy.

(2) A person who contravenes this section shall be guilty of an offence and liable to a fine of not more than one hundred pounds.

(3) Notwithstanding the foregoing provisions of this section any of the following persons, though unregistered, may use the title "masseur," namely:—

- (a) a person employed to apply massage to persons engaged in or training for games or athletics :
- (b) a person employed at public baths to massage patrons of the baths :
- (c) any other persons approved by the board.

36. (1) Every application for registration as a physiotherapist shall be made in writing in the form prescribed by regulations and shall be addressed to the board and sent by post to or lodged with the registrar ; and the statements made therein shall be verified by a statutory declaration made by the applicant.

Applications
for registration.

(2) Every applicant for registration shall furnish the board with all such information as it reasonably requires to enable it to decide the application, and with all particulars required to be entered in the register.

37. Every applicant shall with his application pay to the board an application fee of two guineas and a registration fee of one guinea. The registration fee shall be returned to the applicant if his application for registration is refused.

Fees.

38. (1) A person who applies for registration within six months after the commencement of this Act, shall be entitled to be registered as a physiotherapist if he proves to the satisfaction of the board that—

Qualifications
for regis-
tration where
applicant
applies within
six months
after passing
of this Act.

- (a) he resides in the State ;
- (b) he is of good character ; and
- (c) within the period of thirty-six months immediately preceding the commencement of this Act he was for at least twenty-four months in the aggregate practising physiotherapy in the State for fee or reward.

(2) A person who is or has been a member of a naval, military or air force of the Commonwealth or any other part of His Majesty's Dominions and who within the period of twenty-four months immediately before he became such a member was for at least twelve months in the aggregate practising physiotherapy in the State for fee or reward, shall be deemed to have continued so to practise throughout the period of his service in the naval, military or air force.

(3) A person who within the period of two years ending on the third day of September, nineteen hundred and thirty-nine, was for at least twelve months in the aggregate practising physiotherapy in the State for fee or reward and who after that date and before the commencement of this Act ceased so to practise for the purpose of engaging in work connected with a war in which the Commonwealth was engaged shall be deemed to have complied with paragraph (c) of subsection (1) of this section.

Permanent
qualifications
for
registration.

39. A person shall be entitled to be registered as a physiotherapist if he proves to the satisfaction of the board that—

- (a) he resides in the State ;
- (b) he is of good character ; and
- (c) (i.) he holds the Diploma of Physiotherapy of the University of Adelaide ; or
 - (ii.) he is a member of the Australian Physiotherapy Association (South Australian Branch) Incorporated ; or
 - (iii.) he holds any degree diploma or other qualification prescribed by regulation, whether granted in or outside of the State.

Consideration
of applications.

40. The board shall receive, consider, and decide all applications for registration under this Act.

Appeals.

41. The decision of the board on any application for registration under this Act shall be subject to appeal as hereinafter provided in this Act.

PART IV.

MISCELLANEOUS.

Annual Subscriptions.

42. (1) Every registered physiotherapist shall pay an annual subscription to the funds of the board of such amount, not exceeding three guineas, and at such time as are prescribed by the regulations and the amount of such subscription shall be recoverable by the board by action in any court of competent jurisdiction :

Annual
subscriptions.

Provided that any registered physiotherapist who has ceased to practise may, with the approval of the board, remain on the register without liability to pay any subscription ; but he shall not, so long as he does not pay subscriptions, be entitled to practise physiotherapy or to be a member of the board or to vote at any election of members of the board.

(2) The board may, if it thinks reasonable cause exists for doing so, remit any arrears of subscriptions in whole or in part.

(3) The board may accept, from any registered physiotherapist, such sum as it thinks proper as payment in advance of all subscriptions to become due by him during his life, or during any period.

(4) All money received by the board under this Act shall be expended by the board in defraying the cost of carrying out its duties, powers, and functions under this Act.

False Entries and Statements.

43. Any person who—

- (a) knowingly makes or causes to be made in the register any entry or alteration which is false or not authorized by law ; or
- (b) knowingly makes any false statement, written or oral, in connection with any application or any matter being dealt with or considered by the board ; or
- (c) falsely states that he has obtained any certificate under this Act, or is registered under this Act, or causes or permits any such false statement to be made,

Penalty for
false entries
and
statements.

shall be guilty of an offence, and liable to a fine not exceeding one hundred pounds, or to imprisonment for a term not exceeding twelve months.

Appeals and Legal Procedure.

Appeals against
decisions of
the board.

44. (1) There shall be an appeal against any decision, order, or direction of the board given or made in the exercise or purported exercise of any of its powers or functions under this Act.

(2) The appeal shall lie to the Supreme Court and shall be instituted within one month from the giving or making of the decision, order, or direction appealed against. The appeal shall be by way of rehearing.

(3) The Supreme Court may, on the hearing of the appeal, do any one or more of the following things, according to the nature of the case :—

(a) affirm, quash, or vary the decision, order, or direction appealed against, or substitute, or make or give any decision, order, or direction which ought to have been made or given in the first instance ;

(b) remit the subject matter of the appeal to the board for further consideration or further hearing ;

(c) make any further or other order, as to costs or otherwise, which the case requires.

(4) The judges of the Supreme Court, in accordance with the provisions of the Supreme Court Act, 1935-1943, as to the making of rules of court, may make rules of court regulating the practice and procedure on such appeals.

(5) The board shall, if required by any person affected by any decision given by it, state in writing the reason for its decision. If the decision of the board is not given in writing in the first instance, the time within which an appeal may be instituted shall, if the appellant at the time of the decision requested that reasons for the decision should be given in writing, run from the time when the board first gives reasons for its decision in writing.

Power of
board to
summon
witnesses and
take evidence.

45. (1) For the purpose of hearing and determining any application for registration, or of making any inquiry in the course of carrying out its duties under this Act, the board may—

(a) by summons signed on behalf of the board by a member of the board or the registrar, require the attendance before the board of any person whom the board thinks fit to call before it ;

- (b) by notice in writing signed on behalf of the board by a member of the board or the registrar require the production of any books, papers, or documents ;
- (c) inspect any books, papers, or documents produced before it, and retain them for such reasonable periods as it thinks fit, and make any copies of them or of any of their contents ;
- (d) examine witnesses on oath, affirmation, or declaration, which may be administered by the registrar or any member of the board.

(2) If any person—

- (a) who has been personally served with a summons to attend before the board, and whose reasonable expenses of attendance have been paid or tendered to him, neglects to attend in obedience to the summons ; or
- (b) who has been personally served with a notice to produce books, papers, and documents, refuses or fails to comply with the notice ; or
- (c) wilfully insults the board or any member thereof ; or
- (d) misbehaves himself before the board ; or
- (e) interrupts the proceedings of the board ; or
- (f) being called as a witness before the board, refuses to be sworn or to affirm or declare ; or
- (g) being called as a witness before the board, refuses to answer any lawful question put to him by the board,

he shall be guilty of an offence and liable to a fine not exceeding fifty pounds.

46. Proceedings for offences against this Act shall be disposed of summarily. Summary proceedings.

47. Any notice under this Act may be served personally or by post by registered letter. Service of notices.

Regulations.

48. The Governor may on the recommendation of the board make regulations— Regulations.

- (a) prescribing any matters necessary or convenient to be prescribed for the administration of this Act, or for carrying out the objects of this Act ;
- (b) prescribing penalties recoverable summarily and not exceeding twenty-five pounds for breach of any regulation.

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

C. W. M. NORRIE, Governor.