

Medical Practitioners (Amendment) Bill

EXPLANATORY MEMORANDUM

Outline

This Bill is designed to add a lay representative and a lawyer to the membership of the Medical Board of Victoria.

In addition, the legislation will make some administrative or machinery amendments to improve the operation of the **Medical Practitioners Act 1970**.

Clause Notes

Clause 1 sets out the purpose of the Act.

Clause 2 is the commencement provision.

Clause 3 defines the **Medical Practitioners Act 1970** as being the Principal Act.

Clause 4 makes several amendments to section 4 of the Principal Act. The overall effect of the amendments is to increase the membership of the Medical Board of Victoria from 9 to 11. The two additional members are to be a lay representative and a lawyer.

A consequential amendment to sub-section (9) adjusts the quorum for meetings of the Board from 3 to 4 members. The clause also includes a saving provisions with respect to the continuation of the existing Board.

Clause 5 repeals section 5 (2) of the Principal Act. Among other things, section 5 exempts a medical practitioner employed full time by the Commonwealth from paying a fee to be registered by the Medical Board, other than the fee for the late renewal of registration.

About 500 Commonwealth employed doctors are currently registered in Victoria under this provision. This means that all the costs of providing a registration service on behalf of such doctors have to be borne by the other members of the profession.

This is considered inequitable and the proposed repeal of section 5 (2) will put all medical practitioners registered by the Medical Board on a similar footing.

Clause 6 makes a machinery change to section 8 (1) of the Principal Act.

Sub-section (1) requires that the Medical Register be kept in the prescribed form. The effect of the proposed change is to enable the form of the Register to be determined by the Board.

Clause 7 deals with a problem which has arisen with some practitioners who have avoided facing disciplinary proceedings by allowing their registration to lapse.

Because no inquiry could be held by the Board, the Board is unable to refuse a subsequent application for re-registration of that person because he or she has not had his or her name removed from the Medical Register, and remains of "good character".

The effect of the proposed amendments section 9 of the Principal Act proposed by this clause is to enable the Board to refuse an application from a person who, in the opinion of the Board, is unfit to be registered, provided that the Board has first conducted an inquiry into the matter.

Clause 8 inserts a new sub-section 15C into the Principal Act.

The new section has two aims. The first is to deem a medical practitioner registered elsewhere in Australia to be registered in Victoria if that person is required to practice in Victoria for an urgent reason. This could include organ retrieval by a member of a recognized transplant service, and participation in neonatal or adult intensive care transfer.

The second is to give the Board the capacity to temporarily register a visiting medical practitioner with an outstanding international reputation for up to 1 month, without the need for the practitioner to attend the Board.

Clause 9 makes two changes to section 17 of the Principal Act.

The proposed amendment to sub-section (6) corrects an oversight when section 17 (4) was amended by the **Accident Compensation (Amendment) Act 1987** to give the Board the power to impose fines as a consequence of disciplinary proceedings. The effect of the new amendment is to also require the Board to publish notice of such finding in the Government Gazette and the penalty imposed in addition to any of the other penalties the Board is currently required to publish in the Gazette.

Proposed new sub-sections (11A) and (11B) are modelled on section 59 of the **Credit (Administration) Act 1984**. They vest in the Board a capacity to suspend or cancel a registration, and establish an associated offence, if a medical practitioner fails to pay a fine imposed by the Board.

Clause 10 inserts a new section 17C into the Principal Act.

This aim of the new section is to avoid the need for the Medical Board to hold a duplicate inquiry into the conduct of a medical practitioner if the registration of a medical practitioner holding dual registration has been cancelled or suspended by the Medical Board of some other State or Territory.

The new section provides, in effect, that if an inquiry equivalent to one which could have been conducted under section 17 of the **Medical Practitioners Act 1970** had been held by some other Medical Board and the Medical Board of Victoria could have suspended the person's registration, or removed his or her name from the Medical Register if the inquiry had been held under section 17, the Board may without further inquiry cancel that person's registration or suspend his or her registration for a corresponding period in this State.

However, if the person appeals to the Supreme Court under section 11 of the Act, the decision of the Board is stayed, unless the court otherwise determines, until the appeal is resolved.

Clause 11 inserts 7 new sections—sections 18B to 18H inclusive—into the Principal Act.

The new sections are designed to establish within the Act a less complex, and legalistic, process for dealing with doctors who may be physically or mentally ill.

In broad terms, the new provisions will enable a doctor, whose health is suspect, to reach an agreement with a preliminary assessor appointed by the Board to limit his or her practice, or to stop practising, or to receive treatment rather than requiring the Board to hold a formal inquiry in every case under section 18 of the Act.

Clause 12 amends section 19 of the Principal Act to recognise graduates of universities, colleges, and other bodies accredited by the Australian Medical Council as being qualified for registration as a medical practitioner in Victoria. It also provides a mechanism under which an interstate doctor, whose qualification are not otherwise recognized in Victoria, can be registered in this State.

The proposed amendments are consistent with the uniform national standards being developed for the registration of medical practitioners in Australia.

Clause 13 makes, essentially, a machinery amendment to section 36 of the Principal Act.

It is designed to resolve legal reservations as to the manner in which the Board is to signify it has authorized a prosecution.

Proposed new sub-section (2) provides that a certificate signed by the President, Deputy President or secretary of the Board is evidence that the person nominated in the certificate is authorized to take proceedings on behalf of the Board.

