

WESTERN AUSTRALIA

ANNO QUINQUAGESIMO OCTAVO

VICTORIÆ REGINÆ

No. 36

An Act to consolidate the Law relating to Medical Practitioners.

[Assented to 28th November, 1894.]

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

PRELIMINARY

Short title and division of Act

1. This Act may be cited as 'The Medical Act, 1894,' and shall come into operation on the first day of January, One thousand eight hundred and ninety-five, and is divided into Parts, as follows:—

PART I.—PRELIMINARY: SS. 1-3.  
PART II.—MEDICAL BOARD: SS. 4-9.  
PART III.—REGISTRATION: SS. 10-15.  
PART IV.—MEDICAL WITNESSES: SS. 16-20.  
PART V.—MISCELLANEOUS: SS. 21-27.

Repeal of 'Medical Ordinance, 1869'

2. The Ordinance mentioned in the First Schedule to this Act, to the extent to which the same is thereby expressed to be repealed, is hereby repealed: Provided that such repeal shall not affect any registration, regulation, by-law, or order made, or any certificate granted under the said Ordinance before the commencement of this Act; and every registration effected under the said Ordinance, and in force at the commencement of this Act, shall for all purposes be as valid and effectual as if it had been, and the same shall be deemed to be a registration effected under this Act.

Interpretation

3. In this Act, unless the context otherwise requires,—

'Board' shall mean the Medical Board, as hereinafter constituted by this Act, and, until the nomination of a board under this Act, shall mean 'The Medical Board' duly constituted under 'The Medical Ordinance, 1869.'

'Minister' shall mean the responsible Minister of the Crown for the time being administering this Act.

'Register' shall mean the register of medical practitioners hereinafter mentioned; and

'Registrar' shall mean the Registrar appointed under the provisions of this Act.

*The Medical Act, 1894*

'Rules' shall mean the rules for the time being made and prescribed by the Board under this Act.

'Medical Practitioner' shall mean a person registered under 'The Medical Ordinance, 1869,' or under this Act, and whose name remains upon the register.

PART II

MEDICAL BOARD

4. (1) For the purposes of this Act, there shall be constituted a Board, to be called the 'Medical Board,' and such Board shall consist of not less than three nor more than seven medical practitioners, one of whom shall be the president. Constitution of Medical Board

(2) Any three members of the Board shall form a quorum, and the Board may act, notwithstanding any vacancy or vacancies, provided that the number of the Board be not reduced below three. Quorum

(3) The president of the Board shall be nominated from time to time by the Governor in Council, and be *ex-officio* chairman. In the absence of the president from any meeting, the members present may elect a chairman for such meeting. President

(4) Each member (including the chairman) shall have one vote, and the chairman shall, in case of an equality of votes, have, in addition to his ordinary vote, a casting vote. All questions at any meetings shall be determined by a majority of votes of the members present. Voting power

(5) The members shall hold office for seven years, provided that any member nominated to fill any vacancy caused by death, resignation, or removal shall hold office so long only as his predecessor would have done had no such vacancy occurred. Term of office

5. (1) The members of the Board shall be nominated from time to time by the Governor in Council. Members to be nominated by Governor

(2) The Governor in Council may from time to time remove the members of the Board, or the president thereof, or any of them, and fill any vacancy caused by removal, death, resignation, or otherwise. Who may remove any member

6. (1) The Board may, with the approval of the Governor in Council, from time to time make and prescribe, amend, repeal, or add to all such rules as to the Board may seem meet for all or any of the following purposes:— Board may make by-laws

(a) For determining the evidence to be produced and conditions to be fulfilled by any person applying for registration under this Act.

(b) For regulating the manner of keeping and the form of the register.

(c) For regulating the meetings and proceedings of the Board and the conduct of the business thereof.

*The Medical Act, 1894*

- (d) For regulating the manner of making and the conduct of the proceedings in connection with complaints or charges against medical practitioners alleged to be guilty of infamous conduct in a professional respect.
- (e) For generally carrying into effect the objects of this Act.

And thereby  
provide for fines  
and penalties

(2) By any such Rules the Board may impose and provide for the recovery of fines and penalties from any person or persons subject thereto, and prescribe a scale of fees to be charged and paid in respect of any application, registration, or other proceeding, act, or thing provided or required under this Act or the Rules.

Not exceeding  
£10

(3) All such rules shall, where the nature of the case permits, state some maximum fine or penalty for any neglect or breach thereof respectively, provided that no such fine or penalty shall exceed Ten pounds.

Board may  
appoint  
examiner,  
Registrar, and  
other officers

7. The Board shall have power to appoint and pay, and to dismiss, an examiner or examiners, and a Registrar and such other officers as the Board may deem necessary for carrying out this Act and the rules, and all such persons shall hold office subject to the rules.

Board may sue

8. (1) The Board may, in its own name, by its Registrar or any person thereunto authorised, in writing under the hand of the president, commence, carry on, prosecute, and defend any action, complaint, information or proceeding whatsoever, both civil and criminal. Every Court of law shall take judicial notice of the signature of the president to any such authorisation.

(2) In any proceedings by the Board it shall not be necessary to prove the appointment of the members or Registrar of the Board.

Board may  
require attend-  
ance of any  
person

9. (1) The Board may require the attendance of any person who applies for registration, and of any other person or persons, and may examine or question any such persons or any witnesses who may attend before the Board, upon oath or affirmation, and for any such purposes the Chairman may administer any oath or affirmation.

(2) Every 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 test* or *duces tecum*, as the case may be, issued by the Supreme Court in a civil action; and the obedience thereto or non-observance thereof shall be enforced and punished by a Judge in chambers in the same manner as in the case of the disobedience or non-observance of a subpoena issued by the said Court.

## PART III

## REGISTRATION

Register to be  
kept by the  
Registrar

10. (1) A Register shall be kept by the Registrar, and shall contain the names, addresses, and qualifications of all medical practitioners registered under 'The Medical Ordinance, 1869,' or hereafter registered under this Act.

*The Medical Act, 1894*

(2) The register shall be kept in such manner and form, and contain such particulars as prescribed by the rules, and shall at all times be open to inspection by any person on payment of a fee not exceeding Two shillings and sixpence.

In form prescribed by rules

(3) The Board shall, from time to time erase any entry which shall be proved to the satisfaction of the Board to have been fraudulently or incorrectly made.

Certain entries may be erased

(4) The Registrar shall from time to time erase the names of all medical practitioners who have died, and shall make such alterations and amendments in the register as the Board may from time to time direct, for the purpose of making the same an accurate record of the names, addresses, and qualifications of the medical practitioners for the time being; and to enable the Registrar to fulfil the duties hereby imposed upon him, it shall be lawful for the Registrar to post notice to any medical practitioner, addressed to him according to his address on the register, inquiring whether he has changed his address or residence, and if no answer shall be returned to such notice within the period of six months from the posting thereof, it shall be lawful to erase the name of such person from the register: Provided that the name may be restored by the Board.

Including names of practitioners who die

11. Every person (male or female) shall be entitled to be registered under this Act, who proves to the satisfaction of the Board that

Persons entitled to be registered

- (a) He is registered under 'The Medical Ordinance, 1869,' hereby repealed; or that
- (b) He holds any one or more of the qualifications in the Second Schedule hereto mentioned; and that
- (c) The *testimonium*, diploma, license, certificate, or other document testifying to such qualification was obtained, after due examination, from some university, college, or other body duly recognised for such purpose in the country to which such university, college, or other body may belong; and that
- (d) He is a person of good fame and character, and still entitled to practise under the qualification by virtue of which he applies to be so registered in the place where the same was granted.

12. The name of any person registered under this Act, who either before or after he is registered shall be convicted in any part of Her Majesty's dominions or elsewhere of any felony, or misdemeanour, or of any other offence which, in the opinion of the Board, renders him unfit to practise, or who, after due inquiry, is adjudged by the Board to have been guilty, in their opinion, of infamous conduct in a professional respect, shall be erased from the register.

Names of practitioners guilty of felony or misdemeanour or of infamous conduct to be erased

13. A copy of the register shall, in the month of January in each year, be published by the Board in the 'Government Gazette.'

Copy of register to be published

Any copy of the register, purporting to be certified as a true copy by the Registrar, shall in all Courts of law be *prima facie* evidence that the persons therein named are registered medical practitioners and possess the qualifications therein mentioned; and the absence of the name or the qualification of any person shall be

*The Medical Act, 1894*

*primâ facie* evidence that such person is not so registered or so qualified.

Register may be altered to insert new or additional qualifications

14. Every person registered under this Act, who shall obtain any higher degree or any qualification other than the qualification in respect of which he is registered, shall be entitled to have such higher degree or additional qualification inserted in the register on payment of such fee as may be prescribed by the rules.

Practitioner on registration entitled to certificate

15. Every medical practitioner shall be entitled to obtain from the Registrar a certificate of his registration, in such form as may be prescribed by the rules.

## PART IV

## MEDICAL WITNESSES

Coroner may summon practitioner on inquest

16. Whenever upon the summoning or holding of a coroner's inquest touching the death of any person, it shall appear to the coroner that the deceased person was not, at or immediately before his death, attended by a medical practitioner, such coroner may issue a summons for the attendance as a witness at such inquest or inquiry of some medical practitioner who shall reside near to the place where such inquest or inquiry is holden.

And to perform a *post-mortem* examination

17. The coroner, either in any such summons as aforesaid or by an order in writing, may, at any time before the termination of the inquest, direct any medical practitioner to perform a *post-mortem* examination of the body of the deceased either with or without an analysis of the contents of the stomach or intestines. Provided that if in any case it appear to the coroner that the death of such deceased person was probably caused partly or entirely by the improper or negligent treatment of any medical practitioner or other person, then such medical practitioner or other person shall not be allowed to perform or assist at any such examination or analysis, although he shall, in every such case, be allowed to be present thereat.

And in certain cases to require further evidence on examination

18. Whenever it shall appear to the coroner, or to a majority of the jury at any such inquest, that the cause of death has not been satisfactorily explained by the medical practitioner or practitioners examined in the first instance, the coroner shall forthwith cause any other medical practitioner or practitioners to be summoned as a witness or witnesses at such inquest, and shall direct him or them to perform a *post-mortem* examination with or without such analysis as aforesaid, whether such an examination shall have been previously performed or not.

Fees payable to medical witnesses to be fixed by Attorney General

19. The fees to be paid to any medical practitioner for attending at any inquest, and for the making of any such *post-mortem* examination, shall be fixed by scale to be prescribed by the Attorney General from time to time.

Penalty for disobedience to summons or order

20. Where any such summons or order of any coroner shall have been served upon any medical practitioner to whom the same was directed, or shall have been left at his usual residence in sufficient

*The Medical Act, 1894*

time for him to obey the same, and he shall nevertheless not obey such summons or order, he shall, for such neglect, forfeit and pay a penalty or sum of not less than Three nor more than Twenty pounds, to be recovered in a summary way before any two Justices, unless he shall, at the hearing of the case, show a good and sufficient excuse for such neglect to the satisfaction of such Justices.

## PART V

## MISCELLANEOUS

## 21. Any person who—

- |   |   |
|---|---|
| (1) Makes or causes to be made any falsification in any matter relating to the register, or   | Every person who falsifies register, or       |
| (2) Knowingly presents or causes to be presented to the Board any forged, false, altered or counterfeit <i>testimonium</i> , certificate, diploma, degree, license, or other document or writing; or  | Presents false documents, or                  |
| (3) Personates or represents himself as being the person referred to in any <i>testimonium</i> , certificate, diploma, degree, license, document, or writing presented to the Board, or in any certificate granted under this Act; or               | Is guilty of personation, or                  |
| (4) Procures or attempts to procure himself or any other person to be registered under this Act by making, or producing or causing to be made or produced, any false or fraudulent declaration or representation, either verbally or in writing; or | Makes a false declaration, or                 |
| (5) Wilfully makes any false statement in any declaration, or on any examination or inquiry required or held by the Board under this Act or the rules; or   | False statement, or                           |
| (6) Falsely advertises or publishes himself as having obtained a certificate, or as being registered or qualified under this Act, or permits any such advertisement or publication,   | Falsely advertises himself as a practitioner, |

shall be guilty of a misdemeanour, and shall, on conviction thereof, be liable to be imprisoned for any term not exceeding three years.

Liable to imprisonment

22. No person other than a medical practitioner registered under this Act shall hold any appointment as a physician, surgeon, or other medical officer in passenger or other vessels leaving any port and registered in any part of Western Australia, or in any public or private hospital or other institution or society for affording medical relief in sickness, infirmity, or old age, or as a medical officer of health, and no certificate required by any Act now or hereafter in force from any physician, surgeon, licentiate in medicine and surgery, or other medical practitioner, shall be valid unless the person signing the same be registered under this Act.

No person other than a medical practitioner to hold certain appointments

*The Medical Act, 1894*

No person other than a medical practitioner shall

Practise medicine or surgery

Pretend to be or take the title of a doctor, &c.

Advertise himself as qualified

Penalty in case of breach

Exceptions

Person advertising himself contrary to Sec. 23 liable to penalty

Every medical practitioner may sue for fees, &c.

23. From and after the passing of this Act no person other than a medical practitioner shall be entitled to

- (1) Practise medicine or surgery in all or any one or more of its branches; or to
- (2) Advertise or hold himself out as being, or in any manner to pretend to be, or to take or use the name or title, (alone or in conjunction with any other title, word, or letter) of a physician, doctor of medicine, licentiate in medicine or surgery, master in surgery, bachelor of medicine or surgery, doctor, surgeon, medical qualified or registered practitioner, apothecary, accoucheur, or any other medical or surgical name or title; or to
- (3) Advertise or hold himself out, directly or indirectly, by any name, word, letter, title, or designation, whether expressed in words or by letters, or partly in one and partly in the other (either alone or in conjunction with any other word or words, or by any other means whatsoever) as being entitled or qualified, able or willing to practise medicine or surgery in any one, more, or all its branches, or to give or perform any medical or surgical service, attendance, operation, or advice.

And every person who, for himself or as assistant, servant, agent, or manager, does or permits any act, matter, or thing contrary to this section or any part thereof, shall be liable for each and every such offence, upon conviction, to a penalty not exceeding Fifty pounds nor less than Two pounds, and all costs of suit.

Nothing in sub-section (1) contained shall prejudice or affect the lawful business or occupation of a chemist and druggist, or of a pharmaceutical chemist, and nothing in this section contained shall prejudice or affect the lawful business or occupation of a dentist registered under 'The Dentists Act, 1894.'

24. Every person who shall exhibit or publish, or cause, permit, or suffer to be exhibited or published any letter, circular, placard, handbill, card, or advertisement of any kind whereby any person advertises or holds himself out contrary to any part of section twenty-three, or attempts so to do, shall be liable for each and every such offence, upon conviction, to a penalty not exceeding Ten pounds.

Provided that this section shall not apply to any newspaper proprietor or printer publishing such advertisement before written notice from the Registrar that such advertisement is contrary to some part of the said section.

25. Every medical practitioner registered under this Act may, whilst so registered, sue in any Court of law of competent jurisdiction for the recovery of his fees or other remuneration for professional services, whether medical or surgical; and no person other than such registered medical practitioner shall be entitled to sue or counterclaim for set-off or recover any charge or remuneration for any medical or surgical advice, attendance, service, or operation, or for any medicine which he shall have both prescribed and supplied.

*The Medical Act, 1894*

26. Except where otherwise expressly provided to the contrary by this Act or the rules, all offences, penalties, fines, or fees under this Act or the said rules may be tried and determined, enforced, and recovered summarily before any two or more Justices of the Peace in Petty Sessions. All fines, fees, and penalties recovered under this Act or the rules shall be paid and belong to the Board.

Recovery of penalties, &amp;c.

27. Sections A, D, F, G, H, and I of 'The Shortening Ordinance, 1853,' shall be incorporated with and taken to form part of this Act to all intents and purposes, and in as full and ample a manner as if the said sections had been introduced and fully set forth in this Act.

Shortening Ordinance

W. C. F. ROBINSON,  
GOVERNOR.

## THE SCHEDULES

## SCHEDULE I

Date of Ordinance	Title of Ordinance	Extent of Repeal
33 Vic., No. 8, 12th July, 1869	An Ordinance to regulate the Registration of Medical Practitioners	The whole

## SCHEDULE II

1. Fellow, Member, Licentiate, or Extra Licentiate of the Royal College of Physicians of London.
2. Fellow, Member, or Licentiate of the Royal College of Physicians of Edinburgh.
3. Fellow or Licentiate of the King and Queen's College of Physicians of Ireland.
4. Fellow or Member of the Royal College of Surgeons of England.
5. Fellow or Licentiate of the Royal College of Surgeons of Edinburgh.
6. Fellow or Licentiate of the Faculty of Physicians and Surgeons of Glasgow.
7. Fellow or Licentiate of the Royal College of Surgeons in Ireland.
8. Licentiate of the Society of Apothecaries, London.
9. Licentiate of the Apothecaries' Hall, Dublin.
10. Doctor or Bachelor of Medicine or Master or Bachelor in Surgery of some British or Colonial University. [*Amended by 59 Vic., No. 17.*]
11. Any legally qualified practitioner registered in the United Kingdom under any Act or Acts of the Parliament of the United Kingdom of Great Britain and Ireland now or hereafter in force.
12. Medical officers duly appointed and confirmed of Her Majesty's Sea or Land Service.
13. [*Repealed by 59 Vic., No. 17.*]

Three years' study in a British or Foreign School of Medicine and possessing a medical diploma therefrom