

WESTERN AUSTRALIA

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# MEDICAL AMENDMENT ACT 1994

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No. 67 of 1994

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**AN ACT to amend the *Medical Act 1894*.**

The Parliament of Western Australia enacts as follows:

[Assented to 30 November 1994.]

## **Short title**

1. This Act may be cited as the *Medical Amendment Act 1994*.

**Commencement**

2. (1) Subject to this section this Act is deemed to have come into operation on 1 February 1992.

(2) Sections 7, 8, 9, 10, 11 and 12 come into operation on the 28th day after the day on which this Act receives the Royal Assent.

(3) Section 4 comes into operation on the day that is 12 months after the day on which this Act receives the Royal Assent unless an earlier day is fixed by proclamation.

**Principal Act**

3. In this Act the *Medical Act 1894\** is referred to as the principal Act.

[\* *Reprinted as at 10 March 1988.*

*For subsequent amendments see 1993 Index to Legislation of Western Australia, Table 1, p. 132.]*

**Section 4 amended**

4. Section 4 of the principal Act is amended —

(a) in subsection (1a) —

(i) by deleting “9” and substituting the following —

“ 11 ”; and

(ii) in paragraph (b) by deleting “5” and substituting the following —

“ 7 ”;

and

(b) in subsection (2) —

(i) by deleting “4” and substituting the following —

“ 5 ”; and

(ii) by deleting “2” and substituting the following —

“ 3 ”.

### **Section 11 amended**

**5.** Section 11 of the principal Act is amended by repealing subsections (1), (1a), (1b), (1c), (1ca), (1d) and (2) and substituting the following subsections —

“

(1) Subject to section 11AA a person is entitled to be registered as a medical practitioner if the person —

- (a) has recognized medical qualifications;
- (b) has successfully completed a period of internship or supervised clinical practice as required by the Board; and
- (c) not being a person referred to in section 11AB, pays to the Board together with his or her application for registration such registration fee as is prescribed, together with the annual practice fee prescribed for the purposes of section 16A.

(2) The entitlement to registration of a person referred to in subsection (1) is an entitlement to general registration and not subject to any condition.

(2a) For the purposes of subsection (1) a person has **“recognized medical qualifications”** if the person is a graduate of a Medical School within Australia or the Dominion of New Zealand accredited by the Australian Medical Council or has successfully completed examinations held by that Council for the purposes of registration as a medical practitioner.

”

### **Section 11AA inserted**

**6.** After section 11 of the principal Act the following section is inserted —

“

**Applicants shall be competent and of good character**

**11AA.** Notwithstanding section 11, the Board shall not register a person as a medical practitioner unless satisfied that the person —

- (a) is competent to practise medicine (that is the person has sufficient physical capacity, mental capacity and skill to practise medicine);
- (b) has a sound knowledge of the English language and possesses sufficient skill in the expression of that language, both written and oral, for the practice of medicine; and
- (c) is of good character.

”

**Sections 11AB, 11AC, 11AD, 11AE and 11AF inserted**

7. Before section 11A of the principal Act the following sections are inserted —

“

**Armed forces exempted from fees in certain circumstances**

**11AB.** (1) A person who satisfies the Board that —

- (a) he or she is registered under any Act of a State or Territory of the Commonwealth as a person entitled to practise medicine or surgery; and
- (b) his or her sole occupation is that of a medical officer permanently attached to any of the Armed Services of the Commonwealth,

may be registered as a medical practitioner under this Act, without payment of any registration fee or practice fee payable under this Act, during such time as he or she continues to fulfil the requirements of paragraphs (a) and (b).

(2) A person who satisfies the Board that —

(a) he or she has —

- (i) such qualifications in; and
- (ii) such experience in the practice of,

medicine and surgery as in the opinion of the Board qualify the person to practise medicine and surgery in the State; and

- (b) he or she is serving as a member of a visiting force in the capacity of a medical officer,

may be registered as a medical practitioner under this Act, without payment of any registration fee or practice fee payable under this Act, during such time as he or she continues to fulfil the requirements of paragraphs (a) and (b).

- (3) For the purposes of subsection (2) —

**“force”**, in relation to a country, means the naval, military or air force of that country;

**“visiting force”** means any body, contingent or detachment of the forces of a country that is for the time being present in the State by arrangement with the Minister of State for Defence for the Commonwealth.

### **Entitlement to conditional registration for interns**

**11AC.** (1) The Board may register a person as a medical practitioner subject to appropriate conditions if the person would be entitled to registration under section 11 (1) except for the fact that he or she has not completed a period of internship required by the Board.

(2) The **“appropriate conditions”** of registration are such conditions as the Board thinks appropriate for the purpose of enabling the person to complete that internship.

**Entitlement to conditional registration for supervised clinical practice**

**11AD.** (1) The Board may register a person as a medical practitioner subject to appropriate conditions if the person would be entitled to registration under section 11 (1) except for the fact that he or she has not completed a period of supervised clinical practice required by the Board.

(2) The “**appropriate conditions**” of registration are such conditions as the Board thinks appropriate for the purpose of enabling the person to complete that supervised clinical practice.

**Entitlement to general or conditional registration based on registration elsewhere in Australia**

**11AE.** (1) A person who is registered as a medical practitioner under the law in force in another State or Territory is entitled to be registered as a medical practitioner under this Act.

(2) If the person’s registration in the other State or Territory is not subject to any condition or restriction, the person’s entitlement to registration under this Act is an entitlement to general registration and not subject to any condition.

(3) If the person’s registration in the other State or Territory is subject to any condition or restriction, the person’s entitlement to registration under this Act is an entitlement to registration subject to the conditions to which that registration is subject or conditions, as the Board thinks fit, appropriate to give effect to any restriction to which that registration is subject.

**Conditional registration at the discretion of the Board**

**11AF.** (1) The Board may register a person as a medical practitioner under any of the following provisions and may impose such conditions on the registration as the Board thinks appropriate:

**A. *Graduates from non-accredited institutions — postgraduate training***

A person who is a graduate of medicine from an institution which is not accredited by the Australian Medical Council may be registered on a temporary basis to enable the person to undertake a period of postgraduate training in medicine approved by the Board.

**B. *Medical teaching***

A person may be registered for the purpose of enabling the person to fill a medical teaching position if the person has the qualifications that the Board recognizes for that purpose.

**C. *Medical research***

A person may be registered for the purpose of enabling the person to fill a medical research position if the person has the qualifications that the Board recognizes for that purpose.

**D. *Unmet areas of need***

A person may be registered for the purpose of enabling an unmet area of need to be met if the Board is satisfied that the person



has suitable qualifications and experience to practise medicine in that area of need.

**E. *Recognized specialist qualifications and experience***

A person may be registered if the Board is satisfied that the person has specialist qualifications and experience in medicine obtained outside Australia and registration is for the purpose of enabling the person to practise within that specialty.

**F. *Foreign specialist qualifications and experience — further training***

A person may be registered if the Board is satisfied that the person has specialist qualifications and experience in medicine obtained outside Australia and registration is for the purpose of enabling the person to undergo further specialist training or examination as required by the Board.

**G. *Temporary registration in the public interest***

A person may be registered on a temporary basis if the Board is satisfied that it is in the public interest to do so.

(2) For the purposes of subsection (1) D —

“**an unmet area of need**” means an area of need determined by the Minister.

”.

**Section 11A amended**

8. Section 11A of the principal Act is amended by inserting after subsection (4) the following subsection —

“

(5) This section applies to a medical practitioner who is registered under section 11 (1) and to a medical practitioner who is registered under section 11AF (1) B, C, D, E or G.

”.

**Sections 12 and 12A repealed**

9. Sections 12 and 12A of the principal Act are repealed.

**Section 12B amended**

10. Section 12B of the principal Act is amended —

(a) by repealing subsection (1) and substituting the following subsection —

“

(1) When a person has applied to be registered under section 11 (1), 11AB, 11AC, 11AD, 11AE or 11AF (1) the Registrar, or in the absence of the Registrar, the Assistant Registrar or any member of the Board, upon being satisfied that the person is entitled to be registered, and upon payment of the registration fee (if any), may grant to the person in the prescribed form a provisional certificate of registration or a provisional certificate of conditional registration, as the case may require.

”;

and

- (b) in subsection (4) by deleting “temporary registration under section 11 (1c), his registration or temporary” and substituting the following —

“

conditional registration under section 11AC, 11AD, 11AE or 11AF (1), his registration or conditional

”.

### Section 16A amended

#### 11. Section 16A of the principal Act is amended —

- (a) in subsection (1) —

- (i) by deleting paragraph (a) and substituting the following paragraphs —

“

(a) Subject to this section, every person registered under this Act and practising in the State shall pay the prescribed practice fee to the Board on or before 1 October in each year.

(aaa) The practice fee payable by a medical practitioner who was practising in the State before the commencement of section 11 of the *Medical Amendment Act 1994* in relation to the period commencing 1 January 1995 and ending on 30 September 1995 is three-quarters of the fee prescribed under paragraph (a).

”.

and

- (ii) in paragraph (aa) by deleting “30 June” and substituting the following —

“ 31 March ”;

and

- (b) by repealing subsection (1a) and substituting the following subsection —

“

(1a) The Board may require a medical practitioner, when remitting to the Board the practice fee payable under subsection (1), to furnish the following particulars to the Board in writing —

- (a) the nature of his or her practice;
- (b) the place or places at which the medical practitioner conducts his or her practice;
- (c) any additional qualifications which he or she has gained —
  - (i) since he or she was registered under this Act; or
  - (ii) since he or she last furnished particulars pursuant to this subsection,

whichever is the later; and

- (d) any other particulars which the Board may require.

”.

**Section 17 amended**

**12.** Section 17 of the principal Act is amended by repealing paragraph (4) and substituting the following paragraph —

“

- (4) Procures or attempts to procure registration under this Act for himself or herself or for any other person by making, or producing or causing to be made or produced, any false or fraudulent declaration or representation, either orally or in writing; or

”.

**Savings and transitional provisions**

**13.** Schedule 1 shall have effect.

**SCHEDULE 1**

[Section 13]

**SAVINGS AND TRANSITIONAL PROVISIONS****Interpretation****1. In this Schedule —**

**“assent day”** means the day on which this Act receives the Royal Assent;

**“Board”** means the Board as defined in section 3 of the principal Act;

**“Separate Register”** means the Separate Register referred to in clause 2 (1).

**Certain medical practitioners transferred to a Separate Register**

**2. (1)** The name of a person who was registered as a medical practitioner during the period commencing on 1 February 1992 and ending on the assent day but who is not entitled to be registered as a medical practitioner under section 11 of the principal Act as amended by section 5 of this Act is, by force of this clause, removed from the register kept under section 10 of the principal Act and transferred to a register to be kept by the Board that is to be known as the “Separate Register”.

**(2)** Notwithstanding anything in this Act, a medical practitioner —

**(a)** whose name appears on the Separate Register; and

**(b)** who satisfies the Board that he or she is a permanent resident in Australia and has practised medicine in Australia for not less than 2 years before the assent day,

is entitled to general registration.

**The operation of section 37 of the *Interpretation Act 1984* excluded**

3. Notwithstanding section 37 of the *Interpretation Act 1984*, but subject to this Schedule, a medical practitioner whose name appears on the Separate Register is to be taken to have been granted special conditional registration under this Schedule but is otherwise, subject to the principal Act, to be taken to have been granted general registration.

**Medical practitioner entitled to continuing special conditional registration**

4. (1) A medical practitioner whose name appears on the Separate Register who, not later than 6 months after the assent day, satisfies the Board that he or she is a permanent resident in Australia and that he or she has practised medicine in Australia for a period of not less than 6 months ending on the assent day is entitled to be granted continuing special conditional registration by the Board.

(2) A medical practitioner who is granted continuing special conditional registration under subclause (1) who satisfies the Board that he or she —

- (a) is a permanent resident in Australia; and
- (b) has practised medicine in Australia for not less than 2 years,

is entitled to general registration under the principal Act as amended by this Act.

**Certain medical practitioners granted non-continuing special conditional registration**

5. (1) A medical practitioner whose name appears on the Separate Register who is not entitled to continuing special conditional registration under clause 4 may, within a period of 3 months commencing on the assent day, apply to the Board for non-continuing special conditional registration.

(2) The Board may grant a medical practitioner who makes an application under subclause (1) non-continuing special conditional registration for a period of 12 months.

**Board may remove the name of a medical practitioner from the Separate Register**

**6.** A medical practitioner whose name appears on the Separate Register who —

- (a) does not apply to the Board under clause 4 (1) or 5 (1);
- (b) is not granted continuing special conditional or non-continuing special conditional registration under clause 4 or 5;
- (c) is not a medical practitioner to whom clause 4 (2) applies; or
- (d) is not within the period of 12 months commencing on the day that he or she is granted non-continuing special conditional registration under this Schedule, granted general registration under section 11 of the principal Act as amended by this Act or conditional registration under section 11AC, 11AD, 11AE or 11AF (1) of the principal Act as amended by this Act,

is not entitled to practise medicine and the Board shall remove his or her name from the Separate Register.