



Western Australia

Physiotherapists Act 1950

Compare between:

[12 Dec 2005, 03-b0-02] and [23 Feb 2007, 03-c0-06]

Physiotherapists Act 1950

An Act to provide for the training, qualification and registration of persons as physiotherapists and practice of physiotherapy and matters incidental thereto.

1. Short title

This Act may be cited as the *Physiotherapists Act 1950*¹.

[Section 1 amended by No. 8 of 1967 s. 1(3).]

2. Interpretation

In this Act, unless the context requires otherwise —

“**Board**” means the Physiotherapists Registration Board constituted pursuant to the provisions of this Act;

“**dentist**” means a dentist registered pursuant to the provisions of the *Dental Act 1939*²;

“**medical practitioner**” means a medical practitioner registered pursuant to the provisions of the *Medical Act 1894*;

“**physiotherapist**” means a person registered pursuant to the provisions of this Act;

“**physiotherapy**” means the use by external application to the human body, for the purpose of curing or alleviating an abnormal condition thereof, of manipulation, massage, muscle re-education, electricity, heat, light or any proclaimed method but does not include the internal use of a drug or medicine or the application of a medical or surgical appliance except insofar as the application of the appliance is necessary in the use of such manipulation, electricity, heat, light or proclaimed method;

“proclaimed method” means a method of practising physiotherapy which, on the recommendation of the Board, the Governor by Proclamation published in the *Government Gazette*, declares to be such for the purposes of this Act;

“Register” means the Register of Physiotherapists kept pursuant to this Act;

“Registrar” means the person who for the time being and from time to time is appointed by and holds office under the Board as Registrar.

3. Commencement

This Act shall come into operation on a day to be fixed by Proclamation¹.

4. Administration

Subject to the Minister, this Act shall be administered by the Board.

5. Registrar

- (1) The Board shall appoint a Registrar, who shall also be the Secretary of the Board, and may appoint such examiners and other officers and servants as it considers necessary to enable the Board to carry out its duties and functions.
- (2) The remuneration of the Registrar, examiners and other officers and servants of the Board shall be paid out of the funds of the Board.

6. The Board

- (1) A Board to be called “The Physiotherapists’ Registration Board” shall be constituted for the purposes of this Act.
- (2) The Board shall be appointed by the Governor and shall consist of —

a legally qualified medical practitioner employed within
the department of the Public Service of the State

principally assisting the Minister in the administration of this Act who is nominated by the Minister;
a medical practitioner appointed by the Governor;
2 physiotherapists appointed by the Governor; and
a person nominated by the Council of the Curtin University of Technology and approved by the Minister.

The Board shall elect its own Chairman.

Three members shall constitute a quorum.

- (3) The Board shall be a body corporate with perpetual succession and a common seal and shall be capable of suing and being sued in its corporate name, and of acquiring, holding, and disposing of real and personal property, and of doing and permitting all things which are required by this Act to be done by the Board, or which are necessary and convenient to be done by the Board for the purpose of giving effect to this Act.
- (4) No act or proceeding of the Board shall be invalid or be prejudiced by reason only of the fact that at the time when such act or proceeding is done, taken or commenced, there is a vacancy in the office of the Board.
- (5) No act, matter or thing done or permitted to be done in good faith by the Board or by any member of the Board, or by the Registrar or any officer or servant of the Board in the administration or intended administration of this Act, or in the exercise or performance or intended exercise or performance of any of its or his powers or duties under this Act, shall subject the Board or any member, or the Registrar or any officer or servant of the Board or of the Crown to any liability in respect thereof.

[Section 6 amended by No. 12 of 1952 s. 2; No. 9 of 1977 s. 3; No. 63 of 1981 s. 4; No. 28 of 1984 s. 87; No. 24 of 2000 s. 31.]

7. Funds

- (1) The funds of the Board shall consist of —

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- (a) the fees prescribed by the rules or regulations and payable to the Board;
 - (b) grants, if any, by the Government of the State, and all gifts and donations made by any person to the Board, but subject to any trusts declared in relation thereto; and
 - (c) all the moneys which may come into the hands of the Board under and for the purpose of this Act.
- (2) The funds of the Board may be applied by the Board —
- (a) for any of the purposes of the Act;
 - (b) the furtherance of education and research in physiotherapy;
 - (c) any public purpose connected with the profession of physiotherapy in Western Australia; and
 - (d) any other purpose approved by the Minister.

7A. Accounts

- (1) The Board shall cause to be kept proper accounts and records of the transactions and affairs of the Board and shall prepare financial statements in accordance with Australian Accounting Standards.
- (2) The financial statements shall be prepared on an accrual basis unless the Board determines otherwise.

[Section 7A inserted by No. 77 of 1987 s. 3.]

7B. Audit

The accounts and financial statements of the Board shall be audited at least once a year, at the expense of the Board, by an auditor appointed by the Board with the prior approval of the Minister.

[Section 7B inserted by No. 77 of 1987 s. 3.]

7C. Annual report

- (1) The Board shall on or before 30 June in each year make and submit to the Minister an annual report of its proceedings for the preceding year ending on 31 December together with a copy of the financial statements and the auditor's report.
- (1a) The Board's annual report is to include details of —
 - (a) the number, nature, and outcome, of —
 - (i) investigations and inquiries undertaken by, or at the direction of, the Board; and
 - (ii) matters that have been brought before the State Administrative Tribunal by the Board;
 - (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
 - (c) any trends or special problems that may have emerged;
 - (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
 - (e) any proposals for improving the operation of the Board.
- (2) The Minister shall cause a copy of each annual report, financial statements and auditor's report submitted under subsection (1) to be laid before each House of Parliament within 14 sitting days of that House after receipt of the report by the Minister.

[Section 7C inserted by No. 77 of 1987 s. 3; amended by No. 55 of 2004 s. 938.]

8. Rules

- (1) Subject to this Act, the Board may, with the approval of the Governor, make rules —
 - (a) for regulating the meetings and proceedings of the Board;
 - (b) prescribing the course of training of and the examinations to be passed by persons desiring to be registered as physiotherapists and determining the

- qualifications to be held by persons desiring to be recognised as students;
- (c) for the regulating of the Register and Record of Students;
 - (d) for regulating the manner of making any charge or complaint to the Board against a physiotherapist or student;
 - (e) prescribing the fees to be charged for any registration, license, tuition, examination, certificate or other matter under this Act;
 - (f) for any other matter which the Governor may declare to be a matter in respect of which rules may be made by the Board under this section;
 - (g) for prescribing the manner in which the seal of the Board may be affixed to documents and the manner in which documents issued by the Board may be authenticated.
- (2) Where there is conflict or inconsistency between the provisions of the rules and those of the regulations, to the extent of the conflict or inconsistency, the latter shall prevail and the former shall be void.

[Section 8 amended by No. 12 of 1952 s. 3; No. 55 of 2004 s. 939.]

9. Register of Physiotherapists and Record of Students

For the purposes of this Act there shall be kept by the Registrar in the form and manner prescribed —

- (a) the Register of Physiotherapists;
- (b) the Record of Students.

10. Qualifications

- (1) Subject to the provisions of this Act and the rules and regulations a person who proves to the satisfaction of the Board

that he is a person of good character shall be entitled to be registered as a physiotherapist and issued by the Board with a license authorising him to practise physiotherapy if —

- (a) he has completed the prescribed course of training, and passed the prescribed examinations, or holds qualifications of any university, board, association, society or body prescribed by the regulations, or, in the case of a blind person, he has completed the prescribed special course of training and passed the prescribed special examinations; or

[(b) omitted under the Reprints Act 1984 s. 7(4)(e).]

- (2) Notwithstanding the provisions of subsection (1), any person who —

- (a) satisfies the Board that he is of good fame and character;
- (b) is desirous of engaging in the occupation, as his sole professional occupation in the State, of teaching or research, or of a post-graduate scholar, in physiotherapy under the direction and control of a teaching or research institution; and
- (c) has such qualifications in physiotherapy as in the opinion of the Board fit and qualify him for appointment to a position connected with, and to engage in the occupation of teaching or research, or of a post-graduate scholar in, physiotherapy,

shall, upon his making application to the Board for registration, be entitled to be registered as a physiotherapist under this Act during such time as his appointment and engagement in that teaching or research or as a post-graduate scholar continues to be his sole professional occupation in the State, if in the opinion of the Minister and at the absolute discretion of the Minister it is desirable in the interests of the general community of the State to so register that person.

- (3) For the purposes of subsection (2), “**teaching or research institution**” means any university, college or school of

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physiotherapy, research institute, hospital, clinic or other like institution which is engaged in this State in teaching or research in physiotherapy and which is approved by the Board for the purposes of this subsection.

[Section 10 amended by No. 33 of 1954 s. 2; No. 8 of 1967 s. 2; No. 70 of 1978 s. 3.]

10A. Investigator

- (1) The Board may appoint a person to investigate any matter relevant to the performance of the Board's functions under this Act and report to the Board.
- (2) The Board is to issue to each investigator it appoints a certificate of appointment in an approved form.
- (3) A certificate purporting to have been issued under this section is evidence in any court of the appointment to which the certificate purports to relate.

[Section 10A inserted by No. 55 of 2004 s. 940.]

10B. Report of investigator

- (1) An investigator must —
 - (a) within such period as the Board requires prepare a report on the investigation; and
 - (b) immediately after preparing the report, provide the Board with a copy of the report.
- (2) The investigator must return his certificate of appointment at the time the Board is provided with a copy of the report.

[Section 10B inserted by No. 55 of 2004 s. 940.]

10C. Powers of investigator

- (1) An investigator may for the purposes of an investigation —

- (a) enter and inspect the premises of a person named in a warrant issued under section 10E(1), and exercise the powers referred to in section 10E(2)(b) and (c);
 - (b) require a person to produce to the investigator any document or other thing concerning the investigation that is in the possession or under the control of the person;
 - (c) inspect any document or other thing produced to the investigator and retain it for such reasonable period as the investigator thinks fit, and make copies of a document or any of its contents;
 - (d) require a person —
 - (i) to give the investigator such information as the investigator requires; and
 - (ii) to answer any question put to that person, in relation to the matter the subject of the investigation; and
 - (e) exercise other powers conferred on an investigator by the regulations.
- (2) A requirement made under subsection (1)(b) —
- (a) must be made by notice in writing given to the person required to produce the document or other thing;
 - (b) must specify the time at or within which the document or other thing is to be produced;
 - (c) may, by its terms, require that the document or other thing required be produced at a place and by means specified in the requirement; and
 - (d) where the document required is not in a readable format, must be treated as a requirement to produce —
 - (i) the document itself; and
 - (ii) the contents of the document in a readable format.

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- (3) A requirement made under subsection (1)(d) —
 - (a) may be made orally or by notice in writing served on the person required to give information or answer a question, as the case may be;
 - (b) must specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
 - (c) may, by its terms, require that the information or answer required —
 - (i) be given orally or in writing;
 - (ii) be given at or sent or delivered to a place specified in the requirement;
 - (iii) in the case of written information or answers be sent or delivered by means specified in the requirement; and
 - (iv) be verified by statutory declaration.
- (4) If under subsection (1)(d) an investigator requires a person to give information or answer a question, the investigator must inform that person that the person is required under this Act to give the information or answer the question.
- (5) An investigator must produce his certificate of appointment if requested to do so by a person in respect of whom the investigator has exercised, or is about to exercise, a power under this section.

[Section 10C inserted by No. 55 of 2004 s. 940.]

10D. Warrant to enter premises

- (1) If the Board has determined in a particular case that an investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of substantiating a complaint that may involve a threat to the physical or mental health of a person the investigator may apply to a magistrate for a warrant to be issued in respect of those premises.

- (2) An application for a warrant must —
 - (a) be in writing;
 - (b) be accompanied by a notice in writing from the Board stating that it has determined in the particular case that the investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of substantiating a complaint that may involve a threat to the physical or mental health of a person;
 - (c) set out the grounds for seeking the warrant; and
 - (d) describe the premises that are to be entered.
- (3) A magistrate to whom an application is made under this section must refuse it if —
 - (a) the application does not comply with the requirements of this Act; or
 - (b) when required to do so by the magistrate, the investigator does not give to the magistrate more information about the application.
- (4) The information in an application or given to a magistrate under this section must be verified before the magistrate on oath or affirmation or by affidavit, and the magistrate may for that purpose administer an oath or affirmation or take an affidavit.
[Section 10D inserted by No. 55 of 2004 s. 940.]

10E. Issue of warrant

- (1) A magistrate to whom an application is made under section 10D may issue a warrant, if satisfied that there are reasonable grounds for believing that entry and inspection of the premises are necessary for the purpose referred to in that section.
- (2) A warrant under subsection (1) authorises the investigator —
 - (a) to enter and inspect the premises named in the warrant;

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- (b) to require a person on the premises to answer questions or produce documents or other things in the person's possession concerning the investigation; and
 - (c) to inspect documents and other things, and take copies of or extracts from documents, produced in compliance with a requirement made under paragraph (b).
- (3) There must be stated in a warrant —
- (a) the purpose for which the warrant is issued;
 - (b) the name of the person to whom the warrant is issued; and
 - (c) a description of the premises that may be entered.
- (4) A magistrate who issues a warrant must cause a record to be made of particulars of the grounds that the magistrate has relied on to justify the issue of the warrant.

[Section 10E inserted by No. 55 of 2004 s. 940.]

10F. Execution of warrant

- (1) If asked by the occupier or a person in charge of the premises, the person executing a warrant must produce it for inspection.
- (2) A warrant ceases to have effect —
- (a) at the end of the period of one month after its issue;
 - (b) if it is withdrawn by the magistrate who issued it; or
 - (c) when it is executed,

whichever occurs first.

[Section 10F inserted by No. 55 of 2004 s. 940.]

10G. Incriminating information, questions, or documents

Without prejudice to the provisions of section 11 of the *Evidence Act 1906*, where under section 10C a person is required to —

- (a) give any information;

- (b) answer any question; or
- (c) produce any document,

he shall not refuse to comply with that requirement on the ground that the information, answer, or document may tend to incriminate the person or render the person liable to any penalty, but the information or answer given, or document produced, by the person shall not be admissible in evidence in any proceedings against the person other than proceedings in respect of an offence against section 10H(1)(b).

[Section 10G inserted by No. 55 of 2004 s. 940.]

10H. Failure to comply with investigation

- (1) Where under section 10C a person is required to give any information, answer any question, or produce any document and that person, without reasonable excuse (proof of which shall lie on him) —
 - (a) fails to give that information or answer that question at or within the time specified in the requirement;
 - (b) gives any information or answer that is false in any particular; or
 - (c) fails to produce that document at or within the time specified in the requirement,

the person commits an offence.

Penalty: \$2 000.

- (2) It is a defence in any proceeding for an offence under subsection (1)(a) or (c) for the defendant to show —
 - (a) that, in the case of an alleged offence arising out of a requirement made orally under section 10C, the investigator did not, when making the requirement, inform the defendant that he was required under this Act to give the information or answer the question, as the case may be;

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- (b) that, in the case of an alleged offence arising out of a requirement made by notice in writing under section 10C, the notice did not state that he was required under this Act to give the information, answer the question, or produce the document or thing, as the case may be;
- (c) that the time specified in the requirement did not afford the defendant sufficient notice to enable him to comply with the requirement; or
- (d) that, in any case, the investigator did not, before making the requirement, have reasonable grounds to believe that compliance with the requirement would materially assist in the investigation being carried out.

[Section 10H inserted by No. 55 of 2004 s. 940.]

10I. Obstruction of investigator

A person shall not prevent or attempt to prevent an investigator from entering premises or otherwise obstruct or impede an investigator in the exercise of his powers under section 10C.

Penalty: \$2 000.

[Section 10I inserted by No. 55 of 2004 s. 940.]

11. Prohibition of practise and use of title without registration

- (1) Subject to subsection (2), a person shall not practise physiotherapy nor use the title of physiotherapist unless he is registered as such and holds a license to do so issued to him by the Board.
- (2) The provisions of subsection (1) do not apply in relation to a person registered pursuant to subsection (2) of section 10 so long as that person is engaged in the manner referred to in paragraph (b) of that lastmentioned subsection.

[Section 11 amended by No. 8 of 1967 s. 3.]

12. Certain persons excluded from Act

- (1) A person shall not be required to register under this Act, nor shall it be unlawful for him to apply massage or heat to the human body in the practice of his calling, by reason only of the fact that —
- (a) he is engaged in the practice of osteopathy; or
 - (b) he is engaged in the practice of chiropractic; or
 - (c) he practises face massage or scalp massage for cosmetic purposes only; or
 - (d) he applies massage or heat 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; or
 - (e) he practises chiropody; or
 - (f) he practises massage otherwise than for the curing or alleviation of any abnormal condition.

- (2) In this section —

“osteopathy” means the adjustment by hand only of the bones or soft tissue of the human body for the purpose of curing or alleviating any disease or abnormality of the body;

“chiropractic” means the system of palpating and adjusting the articulations of the human spinal column by hand only, for the relief of nerve pressure.

13. Act does not apply to medical practitioners or dentists

Nothing in this Act shall extend or apply to or in any manner affect the practice of his profession by, or any rights or privileges of a medical practitioner or dentist.

14. Proclaimed method

From time to time the Governor may, on the recommendation of the Board, by Proclamation published in the *Gazette*, declare

any method of practising physiotherapy a proclaimed method for the purposes of this Act and may likewise revoke or vary any Proclamation made pursuant to the provisions of this section.

15. Offences

A person who commits a breach of the provisions of this Act or the rules or regulations commits an offence and is liable, where no other penalty is provided, to a penalty not exceeding \$50.

[Section 15 amended by No. 113 of 1965 s. 8.]

16. Regulations

The Governor may make regulations prescribing fees and forms and all matters required or permitted to be prescribed or necessary or convenient to be prescribed for facilitating the carrying out or giving effect to this Act and without limiting the generality of the foregoing provisions of this section may make regulations —

- (a) relating to the registration and deregistration of physiotherapists;
- (aa) for regulating the making of allegations in respect of disciplinary matters by the Board to the State Administrative Tribunal and specifying the penalties that may be imposed and disciplinary action, including suspending or cancelling the registration of a physiotherapist, that may be taken by the State Administrative Tribunal in dealing with an allegation;
- (b) regulating the training of persons in physiotherapy and prescribing classes to be attended and the examinations to be passed and the minimum age at which training may be commenced;
- (c) relating to the tenure of office of members of the Board;
- (d) relating to payment of fees and travelling allowances to members of the Board;

- (e) relating to the issue, cancellation, renewal and replacement of licenses;
- (f) prescribing qualifications of universities, boards, associations, societies and bodies for the purpose of section 10;
- (g) regulating and prohibiting the method and manner in which a physiotherapist may make known the place or places where and the fact that he is practising physiotherapy;
- (h) prohibiting a person who is not a physiotherapist from representing directly or indirectly or holding himself out as being a physiotherapist or practising physiotherapy.

[Section 16 amended by No. 55 of 2004 s. 941.]

Notes

- ¹ This is a compilation of the *Physiotherapists Act 1950* and includes the amendments made by the other written laws referred to in the following table ^{1a}. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Physiotherapists Act 1950</i>	75 of 1950	5 Jan 1951	15 Jan 1951 (see s. 3 and <i>Gazette</i> 12 Jan 1951 p. 41-2)
<i>Physiotherapists Act Amendment Act 1952</i>	12 of 1952	4 Nov 1952	4 Nov 1952
<i>Physiotherapists Act Amendment Act 1954</i>	33 of 1954	18 Nov 1954	18 Nov 1954
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	s. 4-9: 14 Feb 1966 (see s. 2(2)); balance: 21 Dec 1965
<i>Physiotherapists Act Amendment Act 1967</i>	8 of 1967	5 Oct 1967	5 Oct 1967
Reprint of the <i>Physiotherapists Act 1950</i> approved 29 Nov 1968 in Volume 22 of Reprinted Acts (includes amendments listed above)			
Reprint of the <i>Physiotherapists Act 1950</i> authorised 1 Jul 1976			
<i>Physiotherapists Act Amendment Act 1977</i>	9 of 1977	30 Sep 1977	1 Jan 1978 (see s. 2 and <i>Gazette</i> 23 Dec 1977 p. 4671)
<i>Acts Amendment (Qualifying Ages Alteration) Act 1978 s. 3</i>	70 of 1978	26 Sep 1978	30 Mar 1979 (see s. 2 and <i>Gazette</i> 30 Mar 1979 p. 839)
<i>Acts Amendment (Statutory Designations) and Validation Act 1981 s. 4</i>	63 of 1981	13 Oct 1981	13 Oct 1981
<i>Health Legislation Amendment Act 1984 Pt. XIX</i>	28 of 1984	31 May 1984	1 Jul 1984 (see s. 2)
<i>Acts Amendment (Financial provisions of regulatory bodies) Act 1987 s. 3</i>	77 of 1987	26 Nov 1987	1 Jan 1988 (see s. 2)

Short title	Number and year	Assent	Commencement
<i>Statutes (Repeals and Minor Amendments) Act 2000</i> s. 31	24 of 2000	4 Jul 2000	4 Jul 2000 (see s. 2)
Reprint of the <i>Physiotherapists Act 1950</i> as at 12 Oct 2001 (includes amendments listed above)			
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004</i> Pt. 2 Div. 102 ³	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<u>This Act was repealed by the <i>Physiotherapists Act 2005</i> s. 106 (No. 32 of 2005) as at 23 Feb 2007 (see s. 2 and <i>Gazette</i> 20 Feb 2007 p. 505)</u>			

^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and Year	Assent	Commencement
<i>Physiotherapists Act 2005</i> s. 106 ⁴	32 of 2005	12 Dec 2005	To be proclaimed (see s. 2)

² Formerly referred to the *Dentists Act 1939* the short title of which was changed to the *Dental Act 1939* by the *Dentists Act Amendment Act 1972* s. 1(3). The reference was changed under the *Reprints Act 1984* s. 7(3)(gb).

³ The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administration Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.

⁴ On the date as at which this compilation was prepared, the *Physiotherapists Act 2005* s. 106 had not come into operation. It reads as follows:

“

106. *Physiotherapists Act 1950* repealed

The *Physiotherapists Act 1950* is repealed.

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