

WESTERN AUSTRALIA.

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MEDICAL.

58 Victoriae No. 36.

(No. 36 of 1894.)

[As amended by Acts 59 Vict., No. 17 (a), No. 24 of 1920 (b), No. 51 of 1940 (c), No. 22 of 1945 (d), No. 8 of 1946 (e), No. 21 of 1950 (f) and No. 65 of 1952 (g) and reprinted for the second time pursuant to the Amendments Incorporation Act, 1938.]

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.

1. This Act may be cited as the *Medical Act, 1894-1952*, 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. 10-16A.

[Part IV.—*Medical Witnesses*: ss. 16-20,  
repealed by No. 24 of 1920,  
s. 2.]

PART IV.—MISCELLANEOUS: ss. 17-23.

Short title  
and division  
of Act.

58 Vict. No.  
36, s. 1;  
No. 24 of  
1920, s. 2;  
No. 65 of  
1952, s. 1.

Formerly  
Part V.

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- (a) Assented to 11th September, 1895.  
(b) Assented to 31st December, 1920: Came into operation on 1st January, 1921. See Act No. 24 of 1920, s. 1.  
(c) Assented to 30th December, 1940.  
(d) Assented to 9th January, 1946.  
(e) Assented to 13th November, 1946.  
(f) Assented to 29th November, 1950.  
(g) Assented to 7th January, 1953.

Repeal of  
Medical  
Ordinance,  
1869.  
58 Vict., No.  
36, s. 2.

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 The Ordinance mentioned in the First Schedule to this Act, to the extent to which the same is thereby expressed to be repealed, is hereby repealed: Provided that such repeal shall not affect any registration, regulation, by-law, or order made, or any certificate granted under the said Ordinance before the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.

Interpreta-  
tion.  
58 Vict.,  
No. 36, s. 3,  
amended by  
No. 22 of  
1945, s. 2.

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.

“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.

Added by  
No. 22 of  
1945, s. 2.

“Publish” or “advertise” includes the acts of publishing or advertising or causing to be published or advertised by spoken words whether directly or through the medium of any apparatus for the reproduction of sound.

PART II.—MEDICAL BOARD.

4. (1) For the purposes of this Act there shall be constituted a Board to be called the "Medical Board" which shall consist of seven members to be appointed by the Governor, of whom six shall be medical practitioners and one shall be a person who is not a person employed in the public service of the State.

Constitution  
of Medical  
Board.  
53 Vict., No.  
36, s. 4,  
amended  
by No. 22  
of 1945, s. 3.

(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 one of the members thereof elected by the members of the Board, 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.  
Amended by  
No. 22 of  
1945, s. 3.

(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 of the Board, including the president, shall each of them hold office for such term not exceeding three years from the date of his appointment as the Governor shall when making the appointment determine, and in determining the terms of office of the members first appointed under this section after the commencement of this subsection the Governor may fix varying terms of office in relation to the said members respectively with a view to creating a rotation for the retirement of members of the Board.

Term of  
office,  
amended by  
No. 22 of  
1945, s. 3.

Provided that—

- (a) a member on retirement by effluxion of time shall be eligible for reappointment; and
- (b) where a vacancy occurs in the office of any member by reason of death, resignation or removal during the currency of the term of office of such member, the person

appointed to fill such vacancy shall hold office only during the unexpired portion of the term of office of the member in whose place he is appointed.

5. (1) [Subsection (1) deleted by Act No. 22 of 1945, s. 4.]

Governor  
may remove  
any member  
58 Vict.,  
No. 36, s. 5,  
amended by  
No. 22 of 1945,  
s. 4.

(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.

Board may  
make  
by-laws.  
58 Vict.,  
No. 36, s. 6,  
amended by  
No. 22 of  
1945, s. 5.

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:—

- (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.
- (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 or improper 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.

(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.

Not exceeding £10.

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 appoint examiner, registrar, and other officers.  
58 Vict., No. 36, s. 7.

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.

Board may sue.  
58 Vict., No. 36, s. 8.

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

8A. No act, matter or thing done or suffered to be done by the Board or by any member of the Board or by the Registrar or any officer or servant of the Board bona fide 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 the Crown to any liability in respect thereof.

Protection of Board and Registrar from liability.  
s. 8A inserted by No. 22 of 1945, s. 6.

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.

Board may require attendance of any person.  
58 Vict., No. 36, s. 9, amended by No. 22 of 1945, s. 7.

(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.

Subsec. (3)  
added by  
No. 22 of  
1945, s. 7.

(3) The Board shall hold its inquiries under this Act in public unless the Minister, in any particular cases on the application of the Board approves of the inquiry being held in private.

#### PART III.—REGISTRATION.

Register to be  
kept by the  
Registrar.  
58 Vict.,  
No. 36, s. 10.

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.

In form  
prescribed  
by rules.

(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.

Certain  
entries may  
be erased.

(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.

Including  
names of  
practitioners  
who die.

(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.

11. (1) Every person who after the commencement of this subsection applies to be registered as a medical practitioner under this Act shall be entitled to be so registered if and when he complies with the following provisions, that is to say:—

(a) He proves to the satisfaction of the Board that—

- (i) he is the holder of a degree (obtained after due examination) in medicine and surgery of any legally constituted and recognised university in Great Britain, Northern Ireland, the Commonwealth of Australia or the Dominion of New Zealand which is legally authorised to grant such degree; or
- (ii) [Sub-paragraph (ii) repealed by Act No. 21 of 1950, s. 3.]
- (iii) he has passed through a regular course of medical study of not less than five years' duration in a school or schools of medicine and has received after due examination from some university, college, or other body duly recognised for that purpose in the country in which such university, college, or other body is established a diploma, degree or license which in the opinion of the Board qualifies him to practise medicine and is not inferior to the degree qualifying a person to practise medicine, issued after due examination by the University of Sydney or of Melbourne or of Brisbane or of Adelaide.

Persons entitled to be registered.  
58 Vict.,  
No. 36, s. 11,  
amended by  
No. 51 of  
1940, s. 2;  
No. 22 of  
1945, s. 8;  
No. 8 of  
1946, s. 2;  
No. 21 of  
1950, s. 3;  
No. 65 of  
1952, ss. 2,  
3 and 4.

Provided that this subparagraph shall apply only when, by the laws and regulations in force in the country in which is established the university, college or other recognised body granting the said diploma, degree or license, medical practitioners duly qualified to practise as such in the Commonwealth of Australia are permitted to practise as such in such country without further examination; and

- (iv) he is a person of good fame and character; and
  - (v) in the case of a person applying under either subparagraph (i) or subparagraph (iii) of this paragraph, he is not debarred from practising as a medical practitioner in the country in which he has received his degree, diploma, or license; and
  - (vi) where the diploma submitted as evidence of qualification was issued to the applicant as a result of study in more than one school, he studied continuously in one school for a period of at least three years.
- (b) he pays to the Board with his application the first annual practise fee of three pounds three shillings, which amount shall be deemed to include a fee for registration, provided that in the event of his application for registration being refused he shall be refunded the amount of the said fee.

Inserted by  
No. 51 of  
1940, s. 2,  
as subsec.  
(2), amended  
by No. 21 of  
1950, s. 3;  
No. 65 of  
1952, s. 2.

(2) Any person who satisfies the Board that he is a person of good fame and character and who has held a certificate of regional registration under section twelve, or a certificate of auxiliary service registration under section twelve A of this Act for a period of seven years or more, or for periods aggregating seven years or more shall be entitled to be registered as a medical practitioner under this Act



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 grant such registration.

(2a) (a) A person is entitled to be registered as a medical practitioner under this Act—

Subsec. (2a)  
added by  
No. 65 of  
1952, s. 3.

- (i) if he is of good fame and character;
  - (ii) if he has for a period of three years or more or for periods aggregating a period of three years or more held a certificate of registration under section twelve or a certificate of auxiliary service under section twelve A of this Act: Provided that the Medical Board, in its absolute discretion, may reduce the period of three years to any lesser period considered sufficient;
  - (iii) if he makes application under paragraph (b) of this subsection to be so registered;
  - (iv) if he satisfies the examiners mentioned in paragraph (c) of this subsection that he is qualified to be so registered; and
  - (v) if the Board is of opinion that he should be so registered.
- (b) A person seeking registration under paragraph (a) of this subsection may make application to be so registered to the Board at any time after the expiration of the period of three years mentioned in that paragraph, but if his application is rejected he may not make a further application within one year of the time when the rejected application was made.
- (c) (i) The Board shall from time to time as occasion arises appoint such persons for such periods at such

remuneration and on such conditions as it thinks fit for the purpose of examining applicants for registration under this subsection and of reporting the results of examinations to the Board.

- (ii) Except where they are unable or unwilling to accept appointment under subparagraph (i) of this paragraph, the persons constituting the Medical Faculty of any University in the Commonwealth shall be appointed by the Board as the examiners.

Cf. s. 11A  
(2).

- (d) The Board may with the approval of the Governor make rules in relation to—

- (i) the manner in which applications under this subsection may be made;
- (ii) the appointment of examiners and the conduct of examinations under this subsection; and
- (iii) such other matters as the Board deems necessary in order to give effect to this subsection.

- (e) All the expenses of the examination shall be borne by the applicant.

Subsec. (3)  
inserted by  
No. 8 of  
1946, s. 2,  
amended by  
No. 65 of  
1952, s. 4.

(3) Where, under the provisions of the National Security (Alien Doctors) Regulations of the Commonwealth, a person has been duly licensed to practise medicine in all branches of medical science, and has in fact practised in the State under the authority of and in accordance with the qualifications and conditions (if any) contained in such license, then the period, or aggregate of all periods, during which he shall have so practised in the State in accordance with such license shall count towards, and be taken into consideration for the purpose of calculating the period of seven years or more or periods aggregating seven years or more referred to in subsection (2) of this section or the period of three years or more or the periods aggregating three years or more referred to in subsection (2a) of this section.

11A. (1) The Governor may upon the recommendation of the Board from time to time by Order in Council declare what branches of medicine and surgery shall for the purposes of this Act be and be deemed to be specialties with respect to which medical practitioners who are duly qualified may be registered as specialists.

Determina-  
tion of  
specialties  
and regis-  
tration of  
specialists.  
s. 11A  
inserted by  
No. 22 of  
1945, s. 9.

(2) The Board may with the approval of the Governor and in relation to the registration of medical practitioners as specialists make rules in relation to—

- (a) the manner in which application shall be made and registration shall be effected;
- (b) the experience and/or qualifications necessary;
- (c) the appointment of examiners and the holding of examinations;
- (d) the prescribing of the registration fee; and
- (e) such other matters as the Board deems necessary to implement this section.

(3) The registration of a medical practitioner as a specialist under this section shall continue only so long as the registration of the medical practitioner as a medical practitioner, and when the last mentioned registration is suspended or is erased from the Register of Medical Practitioners the registration of the medical practitioner shall also be simultaneously and similarly suspended or erased from the register of specialists.

(4) The provisions of this Act relating to the restoration to the Register of Medical Practitioners of the registration of a medical practitioner which has been erased therefrom shall, with such adaptations as may be necessary, apply also to the restoration to the register of specialists of the registration of a specialist which has been erased therefrom.

Registration  
for the  
practice of  
medicine  
and surgery  
in certain  
areas.

Inserted by  
No. 51 of  
1940, s. 3,  
as s. 11A;  
renumbered  
s. 12 in 1943  
reprint.\*

Compare  
N.S.W. No. 5,  
1939, s. 3.

12. (1) Where the Governor is satisfied that—
- (a) the residents of any area are not adequately provided for in respect of medical or surgical services; or
  - (b) any hospital within the meaning of the Hospitals Act, 1927†, or the Lunacy Act, 1903-1920§, or the Mental Treatment Act, 1927‡, requires for the proper administration thereof one or more resident medical officers to be employed or engaged on the staff of such hospital and a duly qualified medical practitioner or a sufficient number of such duly qualified medical practitioners is or are not available for such appointment or engagement—

he may by proclamation published in the *Gazette* declare such area or hospital, as the case may be, to be a region within the meaning of this section, and may in like manner alter any area aforesaid or revoke such proclamation.

(2) Where any area is declared by a proclamation under this section to be a region the Board shall, subject to this section, issue a certificate of regional registration in the prescribed form in respect of that region to a person who proves to the satisfaction of the Board that he—

- (a) has passed through a regular graded course of medical study of five or more years duration in a school of medicine in some part of the British Empire or some other country and—
- (i) has received, after due examination, from a university, college, or other body with which such school of medicine is associated and which is duly recognised for the purpose in such part or country, a degree or diploma certifying to his ability to practise medicine or surgery; and

\* i.e., The reprint pursuant to the Amendments Incorporation Act, 1938, of the Medical Act, 1894-1940, contained in Vol. 2 of the Reprinted Acts of the Parliament of W.A. (1943).

† Now the Hospitals Act, 1927-1953: See No. 16 of 1953, s. 1 (3).

§ Now the Lunacy Act, 1903-1950: See No. 74 of 1950, s. 2.

‡ Now the Mental Treatment Act, 1927-1940: See No. 40 of 1940, s. 3.

- (ii) is or was by law entitled to be registered or to practise, as a medical practitioner in some part of the British Empire or some other country; and
- (b) has such experience in the practice of medicine and surgery as in the opinion of the Board is necessary for the proper provision of medical and surgical attention for the inhabitants of the proclaimed region;
- (c) has served as a junior resident medical officer in a hospital approved by the Minister for a period of not less than three months and has been certified by the responsible medical officers of that hospital as competent in the carrying out of the duties assigned to him in such hospital.

(3) Within seven days after the date of publication of a proclamation under this section declaring any area to be a region, and thereafter from time to time, as directed by the Minister, the Board shall, by advertisement published once at least in each of two or more newspapers published at Perth and circulating in Western Australia, invite applications from persons desirous of obtaining a certificate of regional registration in respect of that region.

Such advertisement shall specify a day (not being earlier than the seventh nor later than the fourteenth day after the day upon which the advertisement is published) on or before which such applications shall be lodged at or forwarded to the office of the Board.

The Minister may give a direction under this subsection in any case where he considers it desirable that a certificate of regional registration should be issued in respect of the region.

(4) The Board shall, at its first meeting after the day specified in any advertisement published pursuant to subsection (3) of this section, consider the applications lodged or forwarded in response to such advertisement.

(5) Each applicant shall submit to the Board proof that he possesses the qualifications and experience referred to in subsection (2) of this section.

(6) Each applicant shall attend in person before the Board, unless specially excused by the Board from so doing.

Each applicant may be represented by his solicitor or counsel.

The Board may require the attendance of any other person.

(7) The provisions of section nine of this Act shall, subject to subsection (6) of this section, apply, *mutatis mutandis*, to an application under this section.

(8) The Board shall grant the application of the applicant who in its opinion is most suitable to be the holder of the certificate of regional registration in respect of the region.

Provided that the Board may refuse to grant any application where in its opinion none of the applicants is suitable to be the holder of such a certificate.

The Board shall, as soon as practicable after it has granted an application, or has decided that none of the applicants is suitable to be the holder of a certificate of regional registration, notify the Minister accordingly, and, in cases where no application has been granted, shall specify in writing the reasons for refusing each application refused by the Board.

In cases where the Board has decided that none of the applicants is suitable to be the holder of a certificate of regional registration in respect of a particular region, a local authority or the Minister may appeal in the prescribed manner to a Judge of the Supreme Court, sitting in Chambers, against the decision of the Board within one month from the date of notification of such decision to the Minister, and thereupon the applications of all the applicants shall be dealt with by the Judge by way of appeal from the decision of the Board.

The Judge may decide the appeal on the evidence before the Board, or he may deal with the matter by way of rehearing, and for that purpose may summon and enforce the attendance of witnesses and take evidence on oath or affirmation in the same manner and to the same extent and shall have the same powers and authority as in the exercise of his ordinary jurisdiction.

The local authority or the Minister, as the case may be, and the Board and any applicant may be represented by counsel at the hearing of the appeal, but no order for payment of costs shall be made by the Judge.

The decision of the Judge determining the appeal shall be final and conclusive, and notwithstanding anything contained in this Act the Board shall give effect to such decision.

Rules of Court may be made for regulating the practice and procedure to be followed and observed in appeals under this subsection.

Any local authority appealing against a decision of the Board is hereby authorised and empowered to defray the expense of such appeal out of its funds.

In this subsection "local authority" means any council of a municipality or any board of a road district having its administrative offices within the region in relation to which the applications for a certificate of regional registration have been refused by the Board.

(9) The Board shall not grant an application under this section, unless satisfied that the applicant is a person of good fame and character and fit to practise medicine and surgery, and the provisions of section thirteen and of any regulations made for the purposes specified in paragraph (d) of subsection (1) of section six of this Act shall, *mutatis mutandis*, extend to and in respect of the grant of an application under this section, and for the purposes of the application of such provisions and regulations a reference to a medical practitioner or to a person registered under this Act shall be construed as a reference to a person to whom a certificate of

regional registration has been issued, and any provision relating to the erasure of the name of any person from the register shall be construed as a provision relating to the revocation of a certificate of regional registration.

(10) Where an application under this section is granted the Board shall, upon payment of the prescribed fee, issue a certificate of regional registration to the successful applicant.

(11) Where a certificate of regional registration has been issued to any person under this section, and while the same has effect, such person shall, for purposes connected with or relating to the practice of medicine and surgery within the region mentioned in the certificate of regional registration, be deemed to be a medical practitioner registered under this Act.

(12) The Minister may cancel a certificate of regional registration, if the person to whom the same was issued practises his profession outside the boundaries of the region mentioned in such certificate, and if, having regard to the circumstances in which such person so practised his profession and to the purposes of this section, the Minister considers it just and reasonable so to do.

(13) Subject to this Act a certificate of regional registration shall have effect for a period of one year, but, if not cancelled or revoked, shall be renewed by the Board from time to time for a like period upon the application of the person to whom the same was issued.

Certificate  
of auxiliary  
service  
registration.  
s. 12A added  
by No. 21 of  
1950, s. 4.

**12A.** (1) Where the Governor is satisfied that a duly qualified medical practitioner or a sufficient number of duly qualified medical practitioners is or are not available to provide a medical or surgical service, he may from time to time by Proclamation declare the service to be an auxiliary service in the whole or part of the State.

(2) From time to time the Governor may by Proclamation vary the provisions and operation of a Proclamation made and promulgated pursuant to the power conferred by this section, by cancelling



those provisions and that operation wholly or in part absolutely, or by cancelling those provisions and that operation wholly or in part and substituting other provisions and their operation for those so cancelled.

(3) (a) The provisions of subsections (2) to subsection (13), both inclusive, of section twelve of this Act shall apply in respect of a service so declared by Proclamation to be an auxiliary service as if they were repeated in this section, with the adaptations contained in the next succeeding paragraph.

(b) The adaptations referred to in the last preceding paragraph are as follows:—

- (i) For the word “area” wherever it appears substitute the word “service”.
- (ii) For the words “a region” or “region” wherever they appear, substitute the words “an auxiliary service” or “auxiliary service,” as the case requires.
- (iii) For the words “a certificate of regional registration” wherever they appear, substitute the words “a certificate of auxiliary service registration”.
- (iv) For the words “for the inhabitants of the proclaimed region” in lines four and five of paragraph (b) of subsection (2) of section twelve, substitute the words “for providing the proclaimed auxiliary service”.
- (v) For the words “within the region” in line five of subsection (11) of section twelve, substitute the words “to the extent only, but to no greater extent than that required for the auxiliary service”.
- (vi) For the words “outside the boundaries of the region” in lines three and four of subsection (12) of section twelve, substitute the words “to an extent greater than that required for the auxiliary service”.

Provision for striking off or suspending medical practitioners in certain circumstances.

s. 13 repealed and new section substituted by No. 22 of 1945, s. 10.

13. (1) Subject as in this subsection hereafter provided, the name of any person registered as a medical practitioner under this Act, who either before or after he is registered shall have been or be convicted in any part of His Majesty's Dominions or elsewhere of any felony, crime 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 its opinion of infamous or improper conduct in a professional respect, or of drunkenness, frequently at short intervals of time, or of addiction to any deleterious drug, shall be erased from the register.

Provided that, in lieu of causing the name of such person to be erased from the register as aforesaid, the Board may order that the registration of such person be suspended for such time as shall be specified in the order of suspension.

(2) Any medical practitioner who after due inquiry which the Board may initiate of its own motion shall be adjudged by the Board to have been guilty in its opinion of professional misconduct or gross carelessness or incompetency shall be liable to reprimand, imposition of a fine, or suspension of registration as the Board may deem fit.

(3) If any medical practitioner is at the commencement of this section or thereafter becomes an insane patient or an insane person within the meaning of the Lunacy Act, 1903-1920\*, the Inspector General of the Insane shall notify the Board thereof, and thereupon the Board may without further inquiry order the name of such medical practitioner to be erased from the register or the suspension of the registration of such medical practitioner as it may think fit.

(4) Upon the making of an order of suspension of registration and during the period specified in such order the name of the medical practitioner concerned shall be deemed to be erased from the register and he shall for the period aforesaid be deemed not to be a medical practitioner within the meaning of this Act.

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\* Now the Lunacy Act, 1903-1950: See Act No. 74 of 1950, s. 2.

(5) (a) Any person, who is aggrieved by any decision of the Board by reason whereof his name is erased from the register or his registration is suspended may in accordance with Rules of Court, which the Judges of the Supreme Court are hereby authorised to make or prescribe, appeal to a Judge of the Supreme Court against such decision.

(b) Any such appeal shall be in the nature of a rehearing, and the Judge hearing the same may confirm, quash or vary the order made by the Board.

(c) The decision of the Judge shall be final and the Board shall give effect thereto according to the tenor thereof.

(6) (a) Any person whose name has been erased from the register may at intervals of twelve months apply to the Board for the restoration of his name to the register, and all the provisions of this Act relating to application for registration shall with such adaptations as may be necessary apply to an application for restoration aforesaid.

(b) On the expiration of a period of suspension of registration the name of the person concerned shall be deemed automatically to be restored to the register, and his rights and privileges as a medical practitioner shall thereupon be revived.

14. A copy of the register shall, in the month of May in each year, be published by the Board in the *Government Gazette*.

Copy of register to be published.  
58 Vict., No. 36, s. 13: renumbered s. 14 in 1943 reprint,\* amended by No. 22 of 1945, s. 11.

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

\* i.e. the reprint pursuant to the Amendments Incorporation Act, 1938, of the Medical Act, 1894-1940, contained in Vol. 2 of the Reprinted Acts of the Parliament of W.A. (1943).

Register may be altered to insert new or additional qualification. s. 15 repealed and new section substituted by No. 22 of 1945, s. 12.

15. Any medical practitioner who shall obtain any diploma or certificate from any recognised training university or college recognised by the Board may with the approval of the Board have a memorandum of such diploma or certificate entered in the register on payment of such fee as may be prescribed by the rules of the Board.

Practitioner on registration entitled to certificate. 58 Vict., No. 36, s. 15.

16. 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.

Annual practice fees. s. 16A inserted by No. 22 of 1945, s. 13.

16A. (1) Commencing on the first day of January, One thousand nine hundred and forty-seven, and in respect of the year commencing on that date, and thereafter in each and every year, there shall be paid to the Board annually in advance by all persons practising in this State under the authority of this Act, the following practice fee that is to say—by a medical practitioner and by a person holding a current certificate of regional registration issued to him under section twelve of this Act—a fee of three pounds three shillings:

Provided that where a medical practitioner or a person holding a certificate of regional registration as aforesaid does not commence to practise before the thirtieth day of June in the year when he first commences to practise, or where a medical practitioner is not registered as a specialist before the thirtieth day of June in the year when he is registered as a specialist such medical practitioner, holder of a certificate of regional registration, or specialist as the case may be shall in respect of that year be liable under this section to pay only one half of the annual practice fee prescribed.

(2) If any person liable under subsection (1) of this section to pay the annual practice fee prescribed in that subsection fails in any year to pay such fee within three months after the commencement of that year or within such further time as the Board shall appoint the Board shall direct the Registrar to erase the name, and the Registrar shall thereupon erase the name of such person from every register

kept under this Act in which such person is registered, but the Board may at any time restore to the said register or registers the name of such person upon payment by him to the Board of all fees in arrear and of any fine imposed by the Board for such default under the authority of the rules of the Board.

(3) Notwithstanding anything to the contrary contained in this section, this section shall not apply—

- (a) to a person, who but for this section would be subject to the provisions of this section, while during a time of any war in which His Majesty is engaged he is a member of any of His Majesty's naval, military or air Forces and is employed full time on active service with such Forces in connection with such war; or
- (b) to a medical practitioner or person holding a current certificate of regional registration under this Act who is absent from this State for a period of not less than one year, while he is so absent if the Board exempts such medical practitioner or person aforesaid from the operation of this section.

[Former Part IV.—Medical Witnesses, ss. 16 to 20, repealed by No. 24 of 1950, s. 2.]

#### PART IV.—MISCELLANEOUS.

17. Any person who—

- (1) Makes or causes to be made any falsification in any matter relating to the register, or
- (2) Knowingly presents or causes to be presented to the Board any forged, false, altered or counterfeit *testimonium*, certificate, diploma, degree, license, or other document or writing; or

Formerly  
Part V.:  
renumbered  
Part IV, in  
1943 reprint.\*

Every  
person who  
falsifies  
register, or  
[53 Vict.,  
No. 36, s. 21,  
amended by  
No. 51 of  
1940, s. 4,  
renumbered  
s. 17 in  
1943  
reprint.\*]  
Presents  
false  
documents,  
or

\* i.e., the reprint pursuant to the Amendments Incorporation Act, 1933, of the Medical Act, 1894-1940, contained in Vol. 2 of the Reprinted Acts of the Parliament of W.A. (1943).

Is guilty of  
personation,  
or

- (3) Personates or represents himself as being the person referred to in any *testimonium*, certificate, diploma, degree, license, document, or writing presented to the Board, or in any certificate granted under this Act; or

Makes a  
false  
declaration,  
or

- (4) Procures or attempts to procure himself or any other person to be registered under this Act or for himself or any other person obtains or attempts to obtain the issue of a certificate of regional registration under section twelve by making, or producing or causing to be made or produced, any false or fraudulent declaration or representation, either verbally or in writing; or

False  
statement,  
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

Falsely  
advertises  
himself as  
a prac-  
titioner.

- (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,

Liable to  
imprison-  
ment.

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

No person  
other than  
a medical  
practitioner  
to hold  
certain  
appoint-  
ments.  
58 Vict.,  
No. 36, s. 22.

18. 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.

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

No person other than a medical practitioner shall

58 Vict., No. 36, s. 23, renumbered s. 19 in 1943 reprint,\* amended by No. 22 of 1945, s. 14.

(1) Practise medicine or surgery in all or any one or more of its branches; or to

Practise medicine or surgery

(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

Pretend to be or take the title of a doctor, etc

(3) Advertise or hold himself out, directly or indirectly, by any name, word, title or designation, whether expressed in words or by letters or partly in the 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 or by implication suggests that he is able or willing or in any manner pretends to practise medicine or surgery in any one or more of its or their branches or to give or perform any medical or surgical service attendance, operation or advice or any service, attendance, operation or advice which is usually given or performed by a medical practitioner.

Advertise himself as qualified. No. 22 of 1945, s. 14.

Provided that this paragraph shall not apply to a person practising as a dietitian or as a chiropractor who gives advice or service to persons requiring dietitic or chiropractic advice or service.

\* i.e., the reprint pursuant to the Amendments Incorporation Act, 1938, of the Medical Act, 1894-1940, contained in Vol. 2 of the Reprinted Acts of the Parliament of W.A. (1943).

Penalty in  
case of  
breach.

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 guilty of an offence.

Penalty—For a first offence, fifty pounds with a minimum of two pounds, and for any subsequent offence, one hundred pounds or imprisonment for six months.

Exceptions.

Nothing in subsection (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."\*

Person  
advertising  
himself  
contrary to  
s. 19 liable  
to penalty.  
58 Vict.,  
No. 36, s. 24:  
renumbered  
as s. 20 in  
1943 reprint.†

20. 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 nineteen, 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.

Every  
medical  
practitioner  
may sue for  
fees, etc.  
58 Vict.,  
No. 36, s. 25:  
renumbered  
as s. 21 in  
1943 reprint.†

21. 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.

\* See now the Dentists Act, 1939-1947.

† i.e., the reprint pursuant to the Amendments Incorporation Act, 1938, of the Medical Act, 1894-1940, contained in Vol. 2 of the Reprinted Acts of the Parliament of W.A. (1943).



21A. (1) Subject to subsection (2) hereof, any person, other than a medical practitioner, who uses or implies that he uses radium or X-ray for the diagnosis, examination, or the treatment of any human ailment or physical defect otherwise than under the supervision of a medical practitioner shall be guilty of an offence.

Treatment by means of radium or X-ray.

s. 21A inserted by No. 22 of 1945, s. 15.

Penalty—For a first offence, fifty pounds; and for any subsequent offence imprisonment for six months without the option of a fine.

(2) Subsection (1) of this section shall not apply to a chiropractor or a registered dentist who uses X-ray as an aid to diagnosis in the practice of chiropractice or of dentistry respectively.

21B. (1) Any medical practitioner who is requested so to do by a patient or by a relative of a patient who for any reason is unable to make the request himself, shall endeavour to arrange for a professional consultation between such medical practitioner and another medical practitioner with respect to the condition of the patient and the medical or surgical treatment appropriate in the circumstances.

Medical practitioners to arrange consultation in certain cases.

s. 21B inserted by No. 22 of 1945, s. 15.

(2) Any medical practitioner who without lawful excuse contravenes subsection (1) of this section shall be guilty of an offence.

Penalty—Ten pounds.

(3) A medical practitioner who arranges a consultation with another medical practitioner in accordance with the provisions of subsection (1) of this section shall not thereby become liable for the charges of such other medical practitioner in relation to such consultation.

21C. Except in a case of extreme urgency, a medical practitioner shall not, in connection with a major operation and where another medical practitioner is in practice and present within five miles of the place of operation, himself administer the anaesthetic to the patient or cause or permit any person other than a medical practitioner to administer such anaesthetic.

Restriction on administration of anaesthetics in certain cases.

s. 21C inserted by No. 22 of 1945, s. 15.

Penalty—Fifty pounds.

Application  
of funds of  
Board.  
s. 21D  
inserted by  
No. 22 of  
1945, s. 15.

**21D.** The funds of the Board may be applied and used for all or any of the following purposes, namely—

- (a) all purposes incidental to the administration and enforcement of this Act;
- (b) the advancement of scientific and educational purposes relating to the practice of medicine and surgery; and
- (c) such other purposes as the Board may recommend and the Minister approve.

Accounts.  
s. 21E  
inserted by  
No. 22 of  
1945, s. 15.

**21E.** The Board shall keep proper accounts of all receipts and payments, and such accounts shall be audited at least once a year by the Auditor General at the expense of the Board; and in relation to such auditing the Auditor General shall have and may exercise all the powers which are exercisable by him under the Audit Act, 1904,\* in relation to the collection and audit of public moneys and accounts.

Recovery of  
penalties,  
etc.  
58 Vict.,  
No. 36, s. 26:  
renumbered  
as s. 22 in  
1943 reprint.†

**22.** 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.

Interpreta-  
tion Act.  
58 Vict.,  
No. 36, s. 27:  
renumbered  
as s. 23 in  
1943 reprint,†  
amended by  
No. 22 of  
1945, s. 16.

**23.** Sections A, E, F, G and H of the Second Schedule to the Interpretation Act, 1918-1938,§ 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.

\* Now the Audit Act, 1904-1953: See No. 71 of 1953, s. 2 (2).

† i.e., the reprint pursuant to the Amendments Incorporation Act, 1938, of the Medical Act, 1894-1940, contained in Vol. 2 of the Reprinted Acts of the Parliament of W.A. (1943).

§ Now the Interpretation Act, 1918-1948.

THE SCHEDULES.

58 Vict.,  
No. 36,  
Sch. I.

SCHEDULE I.

Date of Ordinance.	Title of Ordinance.	Extent of Repeal.
33 Vict., 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 legally constituted and recognised Australian, Tasmanian, or New Zealand University.
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 Vict. No. 17, s. 3.]

58 Vict.,  
No. 36,  
Sch. II.  
59 Vict.,  
No. 17,  
ss. 2 and 3.

