

# AUSTRALIAN CAPITAL TERRITORY

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## Medical Practitioners Registration (Amendment) Ordinance 1984

### No. 13 of 1984

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 3 May 1984.

N. M. STEPHEN  
Governor-General

By His Excellency's Command,

NEAL BLEWETT  
Minister of State for Health

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An Ordinance to amend the *Medical Practitioners Registration Ordinance 1930*

### Short title

1. This Ordinance may be cited as the *Medical Practitioners Registration (Amendment) Ordinance 1984*.<sup>1</sup>

### Commencement

2. This Ordinance shall come into operation on such date as is fixed by the Minister of State for Territories and Local Government by notice in the *Gazette*.

### Principal Ordinance

3. In this Ordinance, "Principal Ordinance" means the *Medical Practitioners Registration Ordinance 1930*.<sup>2</sup>

**Interpretation****4.** Section 4 of the Principal Ordinance is amended—

- (a) by omitting “or surgical” from the definition of “medical service”;
- (b) by omitting “nineteen of this Ordinance” from the definition of “the Register” and substituting “19”; and
- (c) by adding at the end thereof the following sub-sections:

“(2) A reference in a provision of this Ordinance to a prescribed fee shall be read as a reference to the fee determined under section 42 for the purposes of that provision.

“(3) Nothing in this Ordinance applies to or in relation to a person who is registered as a medical practitioner in a State or another Territory and who practises as a medical practitioner solely in the performance of his duties as—

- (a) an officer or employee within the meaning of the *Public Service Act 1922*; or
- (b) a member of the Defence Force engaged on continuous full-time service.

“(4) For the purposes of this Ordinance a person shall be deemed to practise medicine if—

- (a) he practises medicine personally on his own account or as a member of a firm;
- (b) in the course of a business carried on by him, a person or persons employed by him is or are engaged in the practice of medicine; or
- (c) he is engaged in the practice of medicine as a person employed in a business carried on by another person (including a company) or by a firm.”.

**Registration by the board****5.** Section 22 of the Principal Ordinance is amended—

- (a) by omitting sub-section (2A);
- (b) by omitting paragraph (3) (b) and substituting the following paragraph:

- “(b) he is a fit and proper person to be registered as a medical practitioner;”;
- (c) by omitting from paragraph (3) (f) “or is a person who is exempted from the requirement to pay the prescribed fee by sub-section (3B)”;
- and
- (d) by omitting sub-section (3B).

### **Registration of eminent medical practitioners**

6. Section 22A of the Principal Ordinance is amended by inserting in sub-section (4) “, subject to this Ordinance,” after “the Board shall”.

7. After section 22A of the Principal Ordinance the following section is inserted:

### **Board may require applicant to attend before Board**

“22B. The Board may require a person who has applied for registration to attend personally before the Board and, if he fails to attend as required, may refuse the application.”.

### **Cancellation or suspension of registration**

8. Section 30 of the Principal Ordinance is amended—

- (a) by inserting after paragraph (1) (c) the following paragraph:
  - “(ca) who, being a person in respect of whom there is in force an order made by the Board under sub-section 30A (2) or (3), fails to comply with that order;”;
- (b) by omitting from paragraph (5) (a) “, otherwise than as permitted by the regulations;”;
- (c) by adding at the end of paragraph (5) (a) “and”;
- (d) by omitting from paragraph (5) (b) “purpose; and” and substituting “purpose.”;
- (e) by omitting paragraph (5) (c); and
- (f) by adding at the end thereof the following sub-section:
  - “(6) A reference to advertising in sub-section (5) shall not be read as including a reference to—
    - (a) the publication by a registered medical practitioner of a notice of the fact that he has commenced or resumed practice

as a medical practitioner or a notice of a change of the address at which he practises as a medical practitioner; or

- (b) the exhibition by a registered medical practitioner at the place or places at which he practises as a medical practitioner of a notice or notices containing his name and qualifications,

being a notice or notices of a kind which conforms to the accepted customs and usages of the medical profession.”.

9. After section 30 of the Principal Ordinance the following sections are inserted:

#### **Suspension of registration or restriction of practice on health grounds**

“30A. (1) Subject to this section, the Board shall, where it is satisfied that the mental or physical condition of a registered medical practitioner is such as to render him unfit to practise, make an order suspending the registration of that medical practitioner.

“(2) The Board may, instead of suspending the registration of a person under sub-section (1), where it is satisfied that the person’s unfitness does not extend to the whole of the practice of medicine and that it would not be contrary to the public interest to make an order under this sub-section, make an order directing that person not to give or perform the medical service or services specified, whether individually or otherwise, in the order.

“(3) The Board shall, within 12 months of the making of an order under this section and thereafter at intervals not exceeding 12 months and, subject to sub-section (4), at any other time if so requested by the person in respect of whom the order was made, review that order and, where the Board is satisfied that the mental or physical condition of that person has changed since the making of the order, it may set aside that order and may, if it thinks fit, make such other order as it could have made under this section that would be appropriate in the changed circumstances.

“(4) Where the Board—

- (a) makes an order under this section; or
- (b) reviews an order made under this section,

the person in respect of whom the order was made shall not be entitled to—

- (c) a review of the order; or

(d) a further review of the order,

as the case may be, within a period of 3 months from the date of the order or review.

“(5) Where a person in respect of whom the Board has made an order in pursuance of sub-section (2) or (3) gives or performs a medical service in contravention of that order, he shall, in giving or performing that service, be deemed to be a person other than a registered medical practitioner.

### **Application for re-registration**

“30B. (1) Where the registration of a person has been cancelled, otherwise than under sub-section 24A (4), or suspended, otherwise than under sub-section 30A (1) or 31 (2), the person may apply for re-registration or termination of the suspension, as the case may be, on the ground that, by reason of a specified change in the circumstances that has occurred since the date of the cancellation or suspension, it is just that he should be re-registered or his suspension should be terminated.

“(2) Upon application under this section the Board may, if it is satisfied that, by reason of the change in circumstances, the person should be re-registered or his suspension should be terminated, order that the person be re-registered or that his suspension be terminated, as the case requires.

### **Inquiry by Board**

**10.** Section 31 of the Principal Ordinance is amended by inserting after paragraph (1) (b) the following paragraph:

“(ba) making an order in pursuance of section 30A;”.

**11.** Section 33 of the Principal Ordinance is repealed and the following section substituted:

### **Registered medical practitioners to practise in registered name**

“33. A registered medical practitioner shall not practise medicine under a name other than the name under which he is registered.

Penalty: \$250.”.

### **Only registered medical practitioners to practise medicine**

**12.** Section 34 of the Principal Ordinance is amended—

(a) by omitting paragraph (1) (aa);

- (b) by omitting from paragraph (1) (b) “doctor, surgeon, medical” and substituting “surgeon, medically”; and
- (c) by omitting from paragraph (1) (c) “to practice medicine or surgery, in any one or more or all of its branches, or”.

**Person advertising himself liable to penalty**

13. Section 35 of the Principal Ordinance is amended by omitting “any part of the last preceding section, or attempts to do so,” and substituting “section 34”.

**Repeal**

14. Section 37 of the Principal Ordinance is repealed.

**Signing of certificates**

15. Section 38 of the Principal Ordinance is amended by omitting paragraph (a) and substituting the following paragraph:

- “(a) any certificate required by any law in force in the Territory from a registered medical practitioner or a medical practitioner; or”.

**Appointment of approved qualified person as medical officer**

16. Section 38A of the Principal Ordinance is amended—

- (a) by omitting from sub-section (3) “physician, surgeon or other”; and
- (b) by omitting from that sub-section “the last preceding section” and substituting “section 38”.

**Application of Part IV**

17. Section 39 of the Principal Ordinance is amended—

- (a) by omitting from paragraph (a) “of the Commonwealth”; and
- (b) by omitting from paragraph (b) “pharmaceutical chemist or druggist, nurse, midwife, or masseur” and substituting “pharmacist or nurse”.

**Recovery of fees for medical services**

18. Section 39A of the Principal Ordinance is amended—

- (a) by omitting from sub-section (2) “registered medical practitioner who has given a medical service (not being a medical service constituting medical treatment for the purpose of the *Workmen’s Compensation Ordinance 1951-1961*) for a person, or a dependant of a person” and

substituting “person who has given a medical service for another person, or a dependant of another person”;

- (b) by omitting from paragraph (2) (b) “three” and substituting “6”; and
- (c) by omitting from sub-section (3) “The last preceding sub-section” and “three” and substituting “Sub-section (2)” and “6”, respectively.

### **Review of accounts for fees for medical services**

**19.** Section 39B of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1) “to a registered medical practitioner for a medical service (not being a medical service constituting medical treatment for the purpose of the *Workmen’s Compensation Ordinance 1951-1961*) may, within three months” and substituting “for a medical service may, within 6 months”;
- (b) by omitting from sub-section (1) “the last preceding section” and substituting “section 39A”;
- (c) by omitting from sub-section (4) “the last preceding sub-section” and substituting “sub-section (3)”;
- (d) by inserting after sub-section (5) the following sub-section:

“(5A) The Board shall cause a copy of a certificate of the Board under sub-section (2) to be sent by post to the person who gave the medical service at his business address, or at his professional address or at one of his professional addresses, last-known to the Board.”; and
- (e) by omitting from sub-section (6) “of this section”.

**20.** After section 39B of the Principal Ordinance the following section is inserted:

### **Administration of estate of deceased medical practitioner**

“39BA. Upon the death of a registered medical practitioner who was at the time of his death carrying on business as a medical practitioner, an executor, administrator or trustee of his estate may continue the business for a period of 6 months or for such longer period as the Board, on application by the executor, administrator or trustee, permits, if the practice of medicine in the business is carried on by a registered medical practitioner.”.

### **Appeal**

**21.** Section 39C of the Principal Ordinance is amended—

- (a) by omitting from paragraph (1) (e) “or” (last occurring);
- (b) by inserting after paragraph (1) (e) the following paragraph:
  - “(ea) making, or refusing to set aside, an order under section 30A;”;
- (c) by adding at the end of sub-section (1) the following word and paragraph:
  - “or (g) refusing to permit an extension of the period under section 39BA.”.

22. After section 39C of the Principal Ordinance the following section is inserted in Part IVA:

**Notification of decisions**

- “39D. (1) Where the Board makes a decision—
- (a) refusing to register, or to re-register, a person;
  - (b) refusing to grant, or to renew, special registration;
  - (c) refusing to terminate the suspension of a person or to set aside an order under section 30A;
  - (d) refusing to approve a qualified person for the purposes of section 38A;  
or
  - (e) refusing to permit an extension of the period under section 39BA,

or the Chairman makes a decision refusing to grant, or to renew, temporary registration, the Board or the Chairman, as the case may be, shall cause a statement in writing to be given to the person whose interests are adversely affected by the decision, setting out the decision, the findings on material questions of fact, referring to the evidence or other material on which those findings were based, and giving the reasons for the decision.

“(2) A statement by the Board or the Chairman under sub-section (1) or a statement by the Board under section 31 of the *Health Professions Boards (Procedures) Ordinance 1981* shall include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, a person whose interests are adversely affected by the decision to which the statement relates is entitled to apply to the Tribunal for a review of the decision.

“(3) The validity of a decision to which a statement under sub-section (1) or under section 31 of the *Health Professions Boards (Procedures) Ordinance*

1981 relates shall not be taken to be affected by a failure to comply with sub-section (2).”.

### **Inspection of Register**

**23.** Section 40 of the Principal Ordinance is amended by omitting from sub-section (3) “or license medical practitioners pursuant to that law” and substituting “medical practitioners or otherwise to authorize the practice of medicine”.

**24.** After section 40 of the Principal Ordinance the following sections are inserted:

### **Publication of registered medical practitioners**

“41. The Board shall, as soon as practicable after 1 July in each year, cause to be published in the *Gazette* a notice containing the names of all medical practitioners registered under this Ordinance on that day and the professional address, or professional addresses, if any, of each of those medical practitioners.

### **Power of Minister to determine fees**

“42. The Minister may, by notice in writing published in the *Gazette*, determine fees for the purposes of this Ordinance.”.

### **Regulations**

**25.** Section 44 of the Principal Ordinance is amended by omitting all words after “to this Ordinance”.

### **Schedule**

**26.** The Schedule to the Principal Ordinance is amended—

(a) by inserting after item 4 in Part A the following item:

“4A Bachelor or Medicine, University of Newcastle”;

(b) by inserting after item 6 in Part A the following item:

“6A Bachelor of Medicine and Bachelor of Surgery, Flinders University of South Australia”; and

(c) by inserting after item 12 in Part A the following item:

“13 Bachelor of Medicine and Bachelor of Surgery, University of Auckland”.

**Further amendments**

27. The Principal Ordinance is further amended as set out in the following table:

Provision	Amendment
Paragraph 22 (3) (a)...	Omit “of this section”.
Paragraph 22 (3) (e)...	Omit “twelve” (wherever occurring), substitute “12”.
Sub-section 38B (1)...	(a) Omit “under the last preceding section”, substitute “under section 38A”.
	(b) Omit “sub-section (3) of the last preceding section”, substitute “sub-section 38A (3)”.
Sub-section 38B (3)...	(a) Omit “under the last preceding section”, substitute “under section 38A”.
	(b) Omit “sub-section (2) of section thirty-one”, substitute “sub-section 31 (2)”.
	(c) Omit “sub-section (3) of the last preceding section”, substitute “sub-section 38A (3)”.

**NOTES**

1. Notified in the *Commonwealth of Australia Gazette* on 10 May 1984.
2. No. 13, 1930 as amended by No. 7, 1931; No. 23, 1933; No. 27, 1937; No. 2, 1939; No. 4, 1950; No. 9, 1954; No. 5, 1956; No. 13, 1958; No. 2, 1962; No. 3, 1963; No. 1, 1964; No. 19, 1966; Nos. 14 and 15, 1967; No. 21, 1969; No. 34, 1970; No. 44, 1973; No. 17, 1975; No. 40, 1976; No. 65, 1977; Nos. 43 and 46, 1978; Nos. 26 and 38, 1979; No. 47, 1980; No. 48, 1981; Nos. 30 and 41, 1982.