



AUSTRALIAN CAPITAL TERRITORY

**Podiatrists Act 1994**

**No. 82 of 1994**

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AUSTRALIAN CAPITAL TERRITORY

# Podiatrists Act 1994

No. 82 of 1994

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## **An Act to provide for the registration of podiatrists, to control the practice of podiatry and for related purposes**

*[Notified in ACT Gazette S253: 29 November 1994]*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

### **PART I—PRELIMINARY**

#### **Short title**

1. This Act may be cited as the *Podiatrists Act 1994*.

#### **Commencement**

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

#### **Interpretation**

3. (1) In this Act, unless the contrary intention appears—  
“Board” means the Podiatrists Board established under section 6;  
“Chairperson” means the Chairperson of the Board;

“determined fee” means the fee determined under section 54 for the purposes of the provision in which the expression occurs;

“medical practitioner” means a registered medical practitioner within the meaning of the *Medical Practitioners Act 1930*;

“member” means a member of the Board;

“Mutual Recognition Act” means the *Mutual Recognition Act 1992* of the Commonwealth;

“physiotherapist” means a registered physiotherapist within the meaning of the *Physiotherapists Act 1977*;

“podiatry” (previously known as chiropody) means the prevention, diagnosis or treatment by medical, electrical, surgical, mechanical or manual methods, or by any other prescribed method, of ailments or abnormal conditions of the human foot and ankle;

“Register” means the Register of Podiatrists kept under section 22;

“registered” means registered under this Act;

“registered podiatrist” means a person—

- (a) who is registered under this Act; or
- (b) who is to be deemed to be registered under this Act by virtue of section 25 of the Mutual Recognition Act;

“registration authority” means a person or body empowered by or under a law of a place outside the Territory to register or licence podiatrists or otherwise authorise persons to practise podiatry.

(2) Nothing in this Act applies in relation to the carrying on by a person, in accordance with the laws of the Territory, of the business or profession of medical practitioner or physiotherapist.

(3) For the purposes of this Act, a person shall be deemed to practise podiatry if—

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

### **Competence to practise podiatry**

4. For the purposes of this Act, a person shall be taken to be competent to practise podiatry only if the person—

- (a) has sufficient physical capacity, mental capacity and skill to practise podiatry; and
- (b) has sufficient communication skills for practising podiatry, including an adequate command of the English language.

### **Impairment**

**5. (1)** For the purposes of this Act, a person shall be taken to suffer from an impairment if the person suffers from any physical or mental impairment, disability, condition or disorder which detrimentally affects, or is likely to detrimentally affect, the person's physical or mental capacity to practise podiatry.

**(2)** For the purposes of subsection (1), habitual drunkenness or addiction to a deleterious drug shall be taken to be a physical or mental disorder.

## **PART II—ADMINISTRATION**

### **Establishment of Board**

**6.** For the purposes of this Act, there shall be a Board called the Podiatrists Board.

### **Constitution of Board**

**7. (1)** The Board shall consist of—

- (a) a Chairperson, and 3 other members, appointed in accordance with the *Health Professions Boards (Procedures) Act 1981*; and
- (b) 1 member, appointed in accordance with the *Health Professions Boards (Procedures) Act 1981* and who is not entitled to be registered by a Board within the meaning of that Act or under the *Dental Technicians and Dental Prosthetists Act 1988*.

**(2)** A person is not eligible for appointment as a member under paragraph (1) (a) unless—

- (a) he or she is a registered podiatrist; and
- (b) he or she was at all times during the period of 3 years immediately preceding his or her appointment, entitled, under the law of a State or Territory, to practise as a podiatrist.

**(3)** The Chairperson shall be the executive officer of the Board.

## **PART III—REGISTRATION**

### ***Division 1—Qualifications for registration***

#### **Registration based on qualifications and training**

- 8. (1)** A person is entitled to be registered as a podiatrist if—
- (a) the person is a graduate of a course of education or training in podiatry offered by an Australian educational institution, being a course that is accredited by the Board or approved by a registration authority of a State or another Territory; or
  - (b) the person—
    - (i) has completed a course of education or training in a place outside Australia that is substantially equivalent to a course referred to in paragraph (1) (a) and qualifies the person to practise as a podiatrist in that place;
    - (ii) has passed such examinations as the Board requires; and
    - (iii) has undertaken such further education or training and gained such experience in practising podiatry, for such period not exceeding 12 months, as the Board determines.

**(2)** The entitlement under this section is an entitlement to registration that is not subject to any condition.

#### **Registration under mutual recognition principle**

**9. (1)** A person who is licensed or registered as a podiatrist under the law in force in a State or another Territory that is a participating jurisdiction within the meaning of the Mutual Recognition Act is entitled to be registered as a podiatrist under this Act.

**(2)** If the person's licence or registration in the State or other Territory is not subject to any condition or restriction, the person's entitlement to registration under this Act is an entitlement to registration that is not subject to any condition.

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

#### **Registration at discretion of Board**

**10. (1)** The Board may register a person as a podiatrist for the purpose of enabling an unmet area of need to be met if the Board is satisfied that the person has suitable qualifications and experience to practise podiatry in that area of need.

(2) The Board may register a person as a podiatrist for the purpose of enabling the person to fill a teaching or research position if—

- (a) the person has qualifications that the Board considers appropriate for that purpose; and
- (b) the application is supported, in writing, by the hospital, professional association, university or other educational or research institution by which it is proposed that the person be engaged for that purpose.

(3) The Board may register a person as a podiatrist on a temporary basis—

- (a) for the purpose of enabling a person to undertake training or to gain experience in practising podiatry; or
- (b) if satisfied that it is in the public interest to do so.

(4) The Board may impose such conditions on the registration of a person under this section as it considers appropriate.

### **Interim registration**

11. (1) An applicant for registration may be granted interim registration where—

- (a) the applicant is entitled to registration under section 8 but it is not practicable to wait until the Board can consider the application; or
- (b) the applicant would be entitled to registration under section 8 except for the fact that a degree or award to which the applicant is entitled has not yet been conferred or granted by the institution concerned.

(2) A person authorised by the Board for the purposes of this section may, on payment of the determined fee, grant an applicant for registration interim registration in accordance with this section.

(3) Interim registration granted to a person under this section remains in force from the time at which it is granted until the person is given notice in writing that the Board has—

- (a) granted him or her registration;
- (b) refused his or her application for registration; or
- (c) cancelled the interim registration.

(4) The Board may cancel a person's interim registration for any reason that it considers proper and shall immediately give the person notice in writing of the cancellation.

(5) A person who holds interim registration is for all purposes to be taken to be a registered podiatrist.

(6) Where a person who is registered as a podiatrist held interim registration at the time of being so registered, the person's registration as a podiatrist shall be taken to have occurred on the day on which he or she was granted interim registration.

(7) Interim registration under this section shall be taken to have been granted by the Board.

### **Conditions of registration in cases of impairment**

12. (1) The Board may impose conditions on a person's registration if the Board is satisfied that the person suffers from an impairment and the conditions are reasonably required having regard to the impairment.

(2) Where conditions have been imposed on a person's registration under this section (including conditions imposed on a review under this section), the Board may, if so requested by the person, review the conditions and, if satisfied—

- (a) that the person no longer suffers from the impairment; or
- (b) that the impairment has lessened;

the Board may alter or remove the conditions or impose new conditions.

### **Refusal of registration where applicant convicted of offence**

13. (1) Subject to subsection (3), the Board may refuse an application for registration if—

- (a) the applicant has been convicted in the Territory of an offence or has been convicted outside the Territory by a court for or in respect of an act or omission that would, had it taken place in the Territory, have constituted an offence; and
- (b) the Board is of the opinion that the conviction renders the person unfit in the public interest to practise podiatry.

(2) The Board shall have regard to the nature of an offence and the circumstances in which it was committed in making a decision under subsection (1).

(3) Subsection (1) does not apply in relation to a person who is entitled to registration pursuant to the Mutual Recognition Act and who has lodged with the Board a notice under section 19 of that Act.

### **Refusal of registration where applicant deregistered outside Territory**

14. (1) Subject to subsection (3), the Board may refuse an application for registration if the applicant's name has been removed from a foreign register of podiatrists for any reason relating to—

- (a) the conduct of the person as a podiatrist; or
- (b) the physical or mental capacity of the person to practise podiatry.



(2) A person's name shall be taken to have been removed from a foreign register of podiatrists if it is removed from any register established or kept under any law of a State, another Territory or a place outside Australia providing for the registration or licensing of podiatrists or the authorisation of persons to practise podiatry.

(3) Subsection (1) does not apply in relation to a person who is entitled to registration pursuant to the Mutual Recognition Act and who has lodged with the Board a notice under section 19 of that Act.

### **Applicants to be competent and of good character**

**15. (1)** Subject to subsection (2), the Board shall not register a person as a podiatrist unless satisfied that the person is competent to practise podiatry and is of good character.

(2) Subsection (1) does not apply in relation to a person who is entitled to registration pursuant to the Mutual Recognition Act and who has lodged with the Board a notice under section 19 of that Act.

### **Restriction on registration of deregistered or suspended persons**

**16. (1)** Subject to subsection (2), where the registration of a person under this Act has been cancelled (otherwise than under subsection 28 (2) or section 31) or suspended (otherwise than under subsection 38 (2)) the person may not apply for re-registration or termination of the suspension, as the case may be, otherwise than under section 39.

(2) Subsection (1) does not apply in relation to a person who is entitled to be re-registered pursuant to the Mutual Recognition Act and who has lodged with the Board a notice under section 19 of that Act.

## ***Division 2—Registration procedure***

### **Applications for registration**

**17. (1)** This section applies to applications for registration other than applications by persons who are entitled to registration pursuant to the Mutual Recognition Act and who lodge with the Board a notice under section 19 of that Act.

(2) An application for registration to which this section applies shall—

- (a) be in a form approved by the Board;
- (b) be accompanied by the determined fee; and
- (c) be lodged with the Board.

### **Applications to be considered and determined**

**18.** The Board shall consider each application under section 17 and shall determine the application by—

- (a) registering the applicant unconditionally or subject to conditions;  
or
- (b) refusing the application.

**Registration of applicants**

**19.** Where a person who is applying for registration otherwise than under the Mutual Recognition Act—

- (a) complies with section 17;
- (b) appears personally before the Board or a nominee of the Board in support of his or her application if required by the Board to do so;  
and
- (c) is entitled to registration in accordance with this Act;

the Board shall, subject to this Act, cause the applicant to be registered.

**Fee for registration pursuant to Mutual Recognition Act**

**20.** A person who applies for registration under this Act pursuant to the Mutual Recognition Act shall pay the determined fee.

**Conditions of registration**

**21.** The conditions that the Board may impose on registration at the time of registration include conditions relating to the duration of registration, the aspects of practice in which the person who is registered may be engaged and conditions relating to any other matters the Board considers appropriate.

***Division 3—Register of Podiatrists*****Register**

**22. (1)** The Board shall keep a register called the “Register of Podiatrists”.

**(2)** The Register may be maintained by electronic means.

**Particulars to be entered in Register**

**23.** The registration of a person as a podiatrist shall be effected by entering in the Register—

- (a) the name of the person;
- (b) each professional address of the person in the Territory or, if the person has no professional address in the Territory, his or her residential address, whether within or outside the Territory;
- (c) particulars of the person’s qualifications;
- (d) the registration number allotted to the person;
- (e) the date of registration;
- (f) the provision by virtue of which the person is entitled to be registered;

- (g) any condition to which the person's registration is subject; and
- (h) such other particulars (if any) as are prescribed.

### **Certificate of registration**

**24. (1)** Where a person is registered as a podiatrist, the Board shall cause to be issued to the person a certificate of registration signed by the Chairperson or Deputy Chairperson.

**(2)** A certificate of registration shall state the provision by virtue of which the person specified in the certificate is entitled to be registered and set out any conditions to which his or her registration is subject.

**(3)** A certificate of registration is evidence that the person specified in the certificate was registered on the date specified in the certificate.

**(4)** Where a person's certificate of registration has been lost or destroyed the Board shall, on payment of the determined fee, cause a duplicate certificate to be issued to the person.

**(5)** Where the registration of a person has been cancelled or suspended the Chairperson shall, by notice in writing given to the person, require the person to deliver his or her certificate of registration to the Board within 14 days.

**(6)** Where a person whose registration has been suspended delivers his or her certificate of registration to the Board, the Board shall retain the certificate during the period of the suspension and return it to the person at the expiration of that period unless the person's registration has sooner been cancelled.

**(7)** Where, after a certificate of registration has been issued to a person—

- (a) conditions are imposed on the registration of the person; or
- (b) conditions imposed on the registration of the person are varied;

the Chairperson may, by notice in writing given to the person, require the person to deliver his or her certificate of registration to the Chairperson within 14 days to enable a statement of the conditions imposed, or the conditions as varied, to be endorsed on the certificate.

**(8)** A notice for the purpose of subsection (5) or (7) may be given to a person by post addressed to the person at the address of the person last known to the Chairperson.

**(9)** A person shall not, without reasonable excuse, refuse or fail to comply with a notice under subsection (5) or (7).

Penalty: \$500.

**(10)** It is a defence to a prosecution for an offence against subsection (5) or (7) that—

- (a) the certificate has been destroyed; or
- (b) after diligent search, the defendant has been unable to find the certificate.

### **Change of address to be notified**

**25.** Where—

- (a) a change occurs in an address of a registered podiatrist shown in the Register; or
- (b) a registered podiatrist establishes a professional address, or an additional professional address, in the Territory;

the registered podiatrist shall, within 1 month of the change or establishment, as the case may be, notify the Chairperson in writing accordingly.

Penalty: \$500.

### **Alteration of Register**

**26. (1)** The Board shall cause to be removed from the Register the name of—

- (a) a registered podiatrist who has died; or
- (b) a registered podiatrist whose registration has been cancelled.

**(2)** The Board may, from time to time, at the request of a person or of its own accord, make such other alterations to particulars in the Register as are necessary.

**(3)** The Board shall not make an alteration to particulars in the Register at the request of a person unless satisfied that the determined fee has been paid.

### ***Division 4—Annual fees***

#### **Annual fee payable**

**27. (1)** A registered podiatrist shall, on or before 1 March in each year, pay the determined fee.

**(2)** The Board shall cause to be sent to each registered podiatrist, not less than 1 month before 1 March in each year, a notice requiring him or her to comply with subsection (1).

**(3)** The liability of a registered podiatrist for a fee payable by him or her under subsection (1) is not affected by a failure of the Board to comply with subsection (2).

### **Registration to be cancelled for non-payment**

**28. (1)** Where a registered podiatrist does not comply with subsection 27 (1), the Board shall cause to be sent to the podiatrist a notice requiring him or her to pay the fee due under that subsection by a day specified in the notice and advising him or her that if the fee is not paid on or before that day his or her registration will be cancelled.

**(2)** The Board shall cancel the registration of a podiatrist to whom a notice has been sent under subsection (1) and who has not paid the fee due by the day specified in the notice.

### **Entitlement to re-registration if fee paid**

**29. (1)** A person whose name has been removed from the Register for failure to pay an annual fee is entitled to be re-registered if he or she—

- (a) makes application in a form approved by the Board; and
- (b) pays the determined fee.

**(2)** The entitlement of a person to re-registration under this section is an entitlement to registration on the same terms and subject to the same conditions (if any) as applied to the person's registration immediately before the removal of his or her name from the Register.

**(3)** The Board may refuse to re-register a person under this section if satisfied that the person is not competent to practise podiatry or is not of good character.

**(4)** An entitlement to re-registration under this section is subject to the provisions of this Act pursuant to which a person's name is authorised or required to be removed from the Register.

## **PART IV—THE CONDUCT OF THE PRACTICE OF PODIATRY**

### **Cessation of registration**

**30.** A person who is registered as a podiatrist ceases to be so registered—

- (a) when the Board gives the person notice that his or her registration has been cancelled in accordance with this Act; or
- (b) if registration is conditional and the period of registration is specified in a condition—when that period expires.

### **Disciplinary action under foreign law**

**31. (1)** Where the Board is satisfied that the name of a person who is registered under this Act has been removed from a register or roll kept under a law of a State or another Territory for any reason relating to—

- (a) conduct of the person as a podiatrist; or

(b) the physical or mental capacity of the person to practise podiatry; the Board shall cancel the registration of the person.

(2) Where—

(a) the name of a person whose registration has been cancelled under subsection (1) is restored to the register or roll referred to in that subsection; and

(b) the person applies to the Board to be re-registered under this Act; the Board shall re-register the person.

(3) Where the Board is satisfied that the name of a person who is registered under this Act has been removed from any register or roll kept under a law of a place outside Australia for any reason relating to—

(a) conduct of the person as a podiatrist; or

(b) the physical or mental capacity of the person to practise podiatry; the Board may cancel the registration of the person.

(4) The Board may re-register a person whose registration has been cancelled under subsection (3) if the Board is satisfied that it is appropriate in the circumstances to do so.

### **Imposition of conditions imposed under foreign law**

**32. (1)** Where the Board is satisfied that after a person has been registered under this Act a condition has been imposed on the registration of the person as a podiatrist under a law of a State or another Territory, the Board shall impose a similar condition on the registration of the person under this Act.

(2) Where the Board is satisfied that after a person has been registered under this Act a condition has been imposed on the registration of the person as a podiatrist under a law of a place outside Australia, the Board may impose a similar condition on the registration of the person under this Act.

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

**33.** The Board may—

(a) cancel the registration of a person as a podiatrist; or

(b) by order served on a podiatrist, suspend his or her registration for such period as the Board considers appropriate;

if satisfied—

(c) that the registration of the person was obtained by fraud or misrepresentation;

(d) that the podiatry qualification of the person has been withdrawn or cancelled by the body which granted it;

- (e) that the person contravened this Act or the regulations;
- (f) that the person has contravened a condition to which his or her registration under this Act is subject;
- (g) that the person has been convicted in the Territory or elsewhere of an offence punishable by imprisonment for more than 1 year or any offence that, in the opinion of the Board, renders him or her unfit to practise podiatry;
- (h) that the person is guilty of habitual drunkenness, or addiction to a deleterious drug that renders him or her unfit to practise podiatry;
- (i) that the person has engaged in any conduct, whether in practising podiatry or not, that adversely affects practising podiatry by the person;
- (j) that the person has engaged in any improper or unethical conduct relating to practising podiatry;
- (k) that the person has failed to exercise adequate judgment or care in practising podiatry; or
- (l) that the person is not competent to practise podiatry.

**Cancellation, suspension or restriction of right of practise on health grounds**

**34. (1)** Subject to subsection (2), the Board shall, if satisfied that the mental or physical condition of a person who is registered as a podiatrist renders him or her unfit to practise podiatry—

- (a) cancel the registration of the person; or
- (b) by order served on the person, suspend the registration of the person for such period as the Board thinks fit.

**(2)** The Board may, instead of cancelling or suspending the registration of a person, if satisfied that the person is fit to give or perform some podiatry services and that it would not be contrary to the public interest to make an order under this subsection, by order served on the person, direct the person not to give or perform the podiatry services specified, whether individually or otherwise, in the order.

**(3)** Where the Board has made an order under subsection (2) in relation to a person, it may, if so requested by the person, review the order and, if satisfied that the mental or physical condition of the person has changed since the order was made, amend or revoke the order.

**(4)** A person on whom an order under paragraph (1) (b) or subsection (2) has been served who gives or performs a podiatry service in contravention of that order shall, in giving or performing the service, be deemed to be a person other than a registered podiatrist.

**Practising when registration suspended**

**35.** Where a person whose registration as a podiatrist has been suspended is convicted of an offence against section 41, the Board may—

- (a) cancel the registration of the person; or
- (b) by order served on the person, suspend the registration of the person for such further period as the Board thinks fit.

**Power of Board to caution, reprimand etc.**

**36. (1)** Subject to subsection (2), the Board may do any 1 or more of the following in relation to the conduct of a registered podiatrist:

- (a) caution or reprimand the podiatrist;
- (b) order that the podiatrist seek and undergo medical or psychiatric treatment or counselling;
- (c) impose on the podiatrist's registration such conditions relating to practising podiatry as the Board considers appropriate;
- (d) order that the podiatrist complete specified educational courses;
- (e) order that the podiatrist seek and follow advice, in relation to his or her practise of podiatry, from persons specified by the Board.

**(2)** Paragraph (1) (d) does not apply in relation to a registered podiatrist who obtained registration under this Act pursuant to the Mutual Recognition Act.

**Power of Board to impose fines**

**37. (1)** Subject to subsection (2), where the Board finds that a registered podiatrist has failed to comply with an order of the Board under subsection 36 (1) it may, by order served on the podiatrist, impose on him or her a fine not exceeding \$1,000.

**(2)** The Board shall not impose a fine under subsection (1) in respect of conduct for which a court has already imposed a fine or other penalty.

**(3)** A fine imposed under this section shall be paid to the Territory within the time specified in the order imposing the fine.

**(4)** Where a podiatrist on whom the Board has imposed a fine under subsection (1) fails to pay the fine by the time specified in the order, the Board may—

- (a) cancel the registration of the podiatrist; or
- (b) by order served on the podiatrist, suspend the registration of the podiatrist for such period as the Board thinks fit.



### **Inquiry by Board**

**38. (1)** The Board shall hold an inquiry before—

- (a) cancelling the registration of a person, other than under subsection 28 (2) or 31 (1);
- (b) suspending the registration of a person;
- (c) making an order under subsection 34 (2); or
- (d) taking any action under subsection 36 (1).

**(2)** Pending the holding of an inquiry under subsection (1), the Board may, by order served on the person to whom the inquiry relates, suspend temporarily the registration of the person.

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

**39. (1)** Where the registration of a person has been cancelled, otherwise than under subsection 28 (2) or subsection 31 (1), or suspended, otherwise than under subsection 38 (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 circumstances that has occurred since the date of the cancellation or suspension, it is just that he or she should be re-registered or that his or her suspension should be terminated.

**(2)** The Board shall, if satisfied that, by reason of the specified change in circumstances, the person should be re-registered or the suspension should be terminated, re-register the person or terminate the suspension, as the case requires.

### **Effect of suspension**

**40.** A person whose registration has been suspended shall, during the period of the suspension, be deemed not to be registered.

### **Offences relating to practising podiatry**

**41. (1)** A person who is not a registered podiatrist shall not—

- (a) provide a podiatry service for fee or reward;
- (b) take or use, either alone or in combination with any other words or letters, the title of podiatrist or chiropodist or a name, title, addition or description (including initials or letters placed after his or her name) indicating or implying that he or she is a registered podiatrist or that he or she is a person who practises, or is qualified to practise podiatry; or
- (c) hold himself or herself out, by advertisement or otherwise, as being qualified or authorised to practise podiatry or as being a person who practises podiatry.

(2) A person who contravenes paragraph (1) (a) is guilty of an offence punishable, on conviction, by a fine not exceeding \$5,000 or imprisonment for 6 months, or both.

(3) A person who contravenes paragraph (1) (b) or (c) is guilty of an offence punishable, on conviction, by a fine not exceeding \$3,000.

(4) A registered podiatrist who practises podiatry under a name other than the name under which the podiatrist is registered is guilty of an offence punishable, on conviction, by a fine not exceeding \$5,000.

**Company not to provide podiatry service except through registered podiatrist**

42. (1) A body corporate shall not provide, or offer to provide, a podiatry service except through a registered podiatrist.

Penalty: \$25,000.

(2) A body corporate shall not advertise that it will provide a podiatry service whether through a registered podiatrist or otherwise.

Penalty: \$15,000.

**Recovery of fees**

43. (1) A person is not entitled to commence an action for the recovery from another person of fees or remuneration for a podiatry service given to that other person, or a dependant of that other person, unless—

- (a) he or she has served or caused to be served on that other person, by delivery to that person personally or by post addressed to that person at his or her last-known place of residence, an account for the fees or remuneration setting out the amount claimed, a brief statement of the nature of the podiatry service given, the date or dates on which it was given and the person to whom it was given; and
- (b) a period of 6 months has elapsed since that service of the account and the account is unpaid at the end of that period.

(2) Notwithstanding subsection (1), an action for the recovery of fees or remuneration for a podiatry service may be commenced without the service of an account for those fees or that remuneration in accordance with that subsection or, if such an account has been so served, before the elapsing of the period of 6 months since the service of the account, if the action is one in which an application could, but for that subsection, be made for an order under Part II of the Arrest on Mesne Process Act, 1902 of the State of New South Wales in its application in the Territory.

**Review of accounts for fees for podiatry service**

44. (1) A person liable to pay fees or remuneration for a podiatry service may, within 6 months after the service upon him or her of an account

for the fees or remuneration in accordance with section 43, apply in writing to the Board to review the account.

(2) The Board shall, on receipt of an application under subsection (1), review the account and certify, under the hand of the Chairperson or the Deputy Chairperson, the amount which, in the opinion of the Board, is a reasonable amount of fees or remuneration for the podiatry service.

(3) The Board shall, in a certificate referred to in subsection (2), set out the facts on which the certificate is based.

(4) The Board may request a person to furnish such information as it thinks necessary or desirable for the purpose of a review under this section and may fix a time within which the information should be furnished.

(5) If a person does not furnish information requested by the Board under subsection (4) within the time fixed by the Board under that subsection, the Board may proceed to review the account for fees or remuneration without that information.

(6) In reviewing an account for fees or remuneration under this section, the Board is not required to conduct a formal hearing, but the Board shall provide the parties to the application with any information furnished to the Board under subsection (4).

(7) In reviewing an account for fees or remuneration under this section, the Board shall have regard to the time occupied in giving, and the nature of, the podiatry service and any other circumstances submitted by the person who gave the podiatry service with respect to the provision of the that service.

(8) The Board shall cause a copy of a certificate of the Board under subsection (2) to be sent by post to the person who gave the podiatry service at his or her professional address, or at 1 of his or her professional addresses, last known to the Board.

(9) In proceedings for the recovery of fees or remuneration in respect of a podiatry service, a certificate of the Board under subsection (2) in relation to that service is evidence that the amount certified in the certificate is a reasonable amount of fees or remuneration for the service.

#### **Administration of estate of deceased podiatrist**

**45.** Upon the death of a registered podiatrist who was at the time of death carrying on business as a podiatrist—

- (a) an executor or executrix of the will of the deceased podiatrist; or
- (b) an administrator, administratrix or trustee of the estate of the deceased podiatrist;

may continue the business for a period of 6 months or for such longer period as the Board, on application by the executor, executrix, administrator,

administratrix or trustee, permits, if the practice of podiatry in the business is carried on by a registered podiatrist.

### **Publication of notice of decision of Board or Administrative Appeals Tribunal**

**46. (1)** The Chairperson may, if he or she thinks fit, cause notice of a decision of the Board or of the Administrative Appeals Tribunal on application for a review of a decision of the Board—

- (a) cancelling the registration of a person;
- (b) suspending, otherwise than under subsection 38 (2), the registration of a person;
- (c) imposing a condition on the registration of a person;
- (d) making an order under subsection 34 (2);
- (e) taking action under section 36; or
- (f) imposing a fine on a person under section 37;

and the reasons for the decision, including the findings on material questions of fact, to be published in the *Gazette*.

**(2)** Notice of a decision shall not be published under subsection (1) until—

- (a) the period within which an application may be made to the Administrative Appeals Tribunal for a review of the decision has expired; and
- (b) if an application for review of the decision is made, the Administrative Appeals Tribunal has given its decision on the application.

## **PART V—APPEALS**

### **Review of decisions**

**47.** Application may be made to the Administrative Appeals Tribunal for review of a decision of the Board—

- (a) under subsection 10 (4), 12 (1) or 32 (2) to impose conditions on the registration of a person;
- (b) under subsection 11 (4) to cancel the interim registration of a person;
- (c) under subsection 12 (2) to refuse to review conditions imposed on the registration of a person;
- (d) under subsection 12 (2) to alter, or to refuse to alter or remove, conditions imposed on the registration of a person;

- (e) under subsection 12 (2) to impose new conditions on the registration of a person;
- (f) under section 18 to refuse to register a person;
- (g) under subsection 29 (3), 31 (4) or 39 (2) to refuse to re-register a person;
- (h) under subsection 31 (3), paragraph 33 (a), 34 (1) (a), 35 (a) or 37 (4) (a) to cancel the registration of a person;
- (i) under paragraph 33 (b), 34 (1) (b), 35 (b) or 37 (4) (b) or subsection 38 (2) to suspend the registration of a person;
- (j) under subsection 34 (2) to make an order directing a person not to give or perform a specified podiatry service;
- (k) under subsection 34 (3) to refuse to review an order directing a person not to give or perform a specified podiatry service;
- (l) under subsection 34 (3) to amend, or to refuse to amend or revoke, an order directing a person not to give or perform a podiatry service;
- (m) under subsection 36 (1) to take any action of a kind specified in that subsection in relation to a registered podiatrist;
- (n) under subsection 37 (1) to impose a fine on a registered podiatrist;
- (o) under subsection 39 (2) to refuse to terminate the suspension of the registration of a person;
- (p) under subsection 44 (2) to certify the amount which, in the opinion of the Board, is a reasonable amount of fees or remuneration for a podiatry service;
- (q) under section 45 to refuse to extend beyond 6 months the period during which the executor or executrix of the will of a deceased podiatrist, or the administrator, administratrix or trustee of the estate of a deceased podiatrist, may continue the business of the podiatrist; or
- (r) under section 45 to fix a period longer than 6 months during which the executor or executrix of the will of a deceased podiatrist, or the administrator, administratrix or trustee of the estate of a deceased podiatrist, may continue the business of the podiatrist.

### **Notification of decisions**

**48.** Where a decision of the kind referred to in section 47 (other than paragraphs (b), (j) or (n)) is made, the Board shall give notice in writing of the decision—

- (a) in the case of a decision referred to in paragraph 47 (a)—to the person on whose registration conditions have been imposed;

- (b) in the case of a decision referred to in paragraph 47 (c) or (d)—to the person whose registration is subject to the conditions;
- (c) in the case of a decision referred to in paragraph 47 (e)—to the person on whose registration the new conditions have been imposed;
- (d) in the case of a decision referred to in paragraph 47 (f)—to the person whose application for registration has been refused;
- (e) in the case of a decision referred to in paragraph 47 (g)—to the person whose application for re-registration has been refused;
- (f) in the case of a decision referred to in paragraph 47 (h)—to the person whose registration has been cancelled;
- (g) in the case of a decision referred to in paragraph 47 (k) or (l)—to the person in relation to whom the order was made;
- (h) in the case of a decision referred to in paragraph 47 (i) or (o)—to the person whose registration has been suspended;
- (i) in the case of a decision referred to in paragraph 47 (m)—to the registered podiatrist in relation to whom the action has been taken;
- (j) in the case of a decision referred to in paragraph 47 (p)—to the person who requested the review of the account; or
- (k) in the case of a decision referred to in paragraph 47 (q) or (r)—to the executor or executrix of the will of the deceased podiatrist or the administrator, administratrix or trustee of the estate of the deceased podiatrist.

### **Contents of notice**

**49. (1)** A notice under subsection 11 (4) or section 48 shall be in accordance with the requirements of the Code of Practice in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.

**(2)** An order under paragraph 33 (b) or 34 (1) (b), subsection 34 (2), paragraph 35 (b), subsection 37 (1), paragraph 37 (4) (b) or subsection 38 (2) shall be in accordance with the requirements of the Code of Practice in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.

**(3)** The validity of a decision referred to in subsection 11 (4) or section 48 is not to be taken to be affected by a failure to comply with subsection (1).

## **PART VI—MISCELLANEOUS**

### **Inspection of Register**

- 50. (1)** A person may, on payment of the determined fee—
- (a) inspect an entry in the Register; and

(b) obtain a certified copy of an entry in the Register.

(2) The Board may, on request by a registration authority and without payment by the authority of a fee, forward to the authority a certified copy of that part of the Register to which the application relates.

### **Publication of registered podiatrists**

51. The Board shall, as soon as practicable after 1 March in each year, cause to be published in the *Gazette* a notice containing the names of all podiatrists registered under this Act on that day and the professional address or professional addresses, as the case may be, of each of those podiatrists.

### **Conduct of directors, servants and agents**

52. (1) Where, in proceedings for an offence against this Act, it is necessary to establish the state of mind of a natural person or a company in relation to particular conduct, it is sufficient to show—

- (a) that the conduct was engaged in by a director, servant or agent of the person or company within the scope of his or her actual or apparent authority; and
- (b) that the director, or the servant or agent, had the state of mind.

(2) Any conduct engaged in on behalf of a natural person or a company by a director, servant or agent of the company within the scope of his or her actual or apparent authority shall be taken, for the purposes of a prosecution for an offence against this Act, to have been engaged in also by the first-mentioned person or the company unless the person or company establishes that he, she or it took reasonable precautions and exercised due diligence to avoid the conduct.

(3) Where—

- (a) a natural person is convicted of an offence; and
- (b) the person would not have been convicted of the offence if subsections (1) and (2) had not been enacted;

the person is not liable to be punished by imprisonment for that offence.

(4) A reference in subsection (1) to the state of mind of a person shall be read as including a reference to—

- (a) the knowledge, intention, opinion, belief or purpose of the person; and
- (b) the person's reasons for the intention, opinion, belief or purpose.

(5) A reference in this section to engaging in conduct shall be read as including a reference to failing or refusing to engage in conduct.

**Penalties for bodies corporate**

**53.** Where a body corporate is convicted of an offence against this Act, the penalty that the court may impose is a fine not exceeding 5 times the maximum amount that, but for this section, the court could impose as a pecuniary penalty for that offence.

**Determined fees**

**54.** The Minister may, by notice in writing, determine fees for the purposes of this Act.

**Regulations**

**55. (1)** The Executive may make regulations for the purposes of this Act.

**(2)** Without limiting subsection (1), the Executive may prescribe matters for and in relation to treatment that is to be considered to be podiatry for the purposes of the definition of “podiatry” in subsection 3 (1).

**PART VII—TRANSITIONAL****Application**

**56. (1)** This section applies to a person who, for a period of, or periods which in the aggregate are not less than, 3 years during the 5 years immediately preceding the commencement of this Act, has provided podiatry services in the Territory.

**(2)** Subject to subsection (3), sections 41, 42, 43 and 45 do not apply to a person to whom this section applies until—

- (a) the expiration of 6 months after this Act commences; or
- (b) the person is registered;

whichever occurs first.

**(3)** Where—

- (a) a person referred to in subsection (1) applies for registration as a podiatrist; and
- (b) the application is made within 6 months of the commencement of this Act;

sections 41, 42, 43 and 45 do not apply to the person until—

- (c) the Board registers the person; or
- (d) if the Board refuses to register the person—the expiration of the day on which the applicant is notified of the decision in accordance with section 48 or subsection 57 (2), as the case requires.

**(4)** For the purposes of this section, where—



- (a) a person referred to in subsection (1) applies for registration as a podiatrist; and
- (b) he or she would, but for this subsection, not be entitled under section 8 to be registered as a podiatrist;

the Board may register the person under this Act if satisfied that the person is otherwise competent to practise podiatry.

(5) The Board may impose such conditions on the registration of a person pursuant to subsection (4) as it considers appropriate.

### **Review of decisions—Part VII**

**57. (1)** Application may be made to the Administrative Appeals Tribunal for a review of a decision of the Board under subsection 56 (4) to refuse to register a person or to impose conditions on the registration of a person referred to in subsection 56 (1).

(2) Where a decision of a kind referred to in subsection (1) is made, the Board shall, within 28 days after the date of the decision, give notice in writing of the decision to the applicant.

(3) A notice under subsection (2) shall be in accordance with the requirements of the Code of Practice in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.

(4) The validity of a decision referred to in subsection (1) is not to be taken to be affected by a failure to comply with subsection (2).

### **First Board members**

**58. (1)** Notwithstanding paragraph 7 (1) (a), the Minister may, in relation to a member referred to in that paragraph, appoint as the first member of the Board, a person who, at the commencement of this Act—

- (a) provides podiatry services; and
- (b) has, for a period of 3 years immediately preceding the commencement of this Act, been entitled under a corresponding law of a State or another Territory to practise podiatry.

(2) The Minister shall remove from office a member appointed under subsection (1) if the member fails to apply for registration within 6 months after the commencement of this Act.

*[Presentation speech made in Assembly on 13 October 1994]*