

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**Medical Practitioners
(Amendment) Bill 1997**

EXPLANATORY MEMORANDUM

Circulated by Authority of
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Minister for Health and Community Care

Outline

The *Medical Practitioners (Amendment) Bill 1997* (the Medical Practitioners Bill), amends the *Medical Practitioners Act 1930* (the Medical Act) for the purposes of expanding the membership of the Medical Board of the ACT (the board) to include a community representative and a legal practitioner.

The board is established under section 7 of the *Medical Practitioners Act 1930* (the Medical Act). It is charged with the responsibility for administering the provisions of the Medical Act which among other things includes the discipline of medical practitioners, after due Inquiry required by section 42, on specific grounds through suspension/cancellation of registration or imposing other sanctions on the practitioner's registration

Section 8 of the Medical Act provides for the constitution of the Board which consists of a chairperson and three other members appointed by the Minister in accordance with the *Health Professions Boards (Procedures) Act 1981* (the Procedures Act), and three members elected in accordance with the *Health Professions Boards (Elections) Act 1980*. All are registered medical practitioners

The Department of Health and Community Care and the Attorney General's Department have jointly identified a number of administrative difficulties relating to legal assistance provided by the Office of the ACT Government Solicitor to the board in relation to disciplinary matters including representation at the board Inquiry stage

Previous outcomes of board Inquiries have also brought into question the competence of the board on legal technical aspects of conducting board Inquiries as well as during its deliberation of the facts put before it.

This has highlighted the desirability for having a member on the board who is a legal practitioner who could direct or assist with directing board Inquiries and ensure that they are conducted in accordance with natural justice principles. This will minimise the likelihood of board decisions being overturned by Tribunals or Courts of Appeal.

The desirability of having a community representative as a voting member on the board has also been identified for some time. By including such a person on the board it acknowledges the increasing awareness of the public in the activities of regulatory bodies. It will also engender greater trust in the board which has in the past been perceived by the public as acting in the interests of the profession rather than protecting the public

The Bill amends Section 8 of the Act to provide for the appointment of two additional members to the Board, neither of whom is entitled to registration by any health profession registration board within the meaning of the *Health Professions Boards (Procedures) Act 1980*, or the *Dental Technicians and Dental Prosthetists Registration Act 1988*. One of the two additional appointees to the Medical Board must be a legal practitioner

Financial Implications

There are no financial implications arising from this Bill.

Detail of the Bill

Short Title

This is a formal requirement which provides the short title by which the Bill may be cited once passed, being the *Medical Practitioners (Amendment) Act 1997*.

Clause 2 Commencement

This is a formal requirement which states the procedure for commencement of the clauses of the Bill. All clauses of the Bill will take effect from the date on which the Bill is notified in the *Gazette*.

Clause 3 Principal Act

This clause defines the term 'Principal Act', as referred to in the Bill, as the *Medical Practitioners Act 1930*.

Clause 4 Constitution of the Board

- (a) This subclause amends paragraph 8(1)(a) and provides for five members of the Medical Board to be appointed by the Minister, as opposed to the current provision which allows the Minister to appoint three members to the Board.
- (b) This subclause amends Section 8 of the Act by omitting the current Subsection 8(2), which requires all members of the Medical Board to be registered medical practitioners, and provides that:
 - (i) two members appointed to the Medical Board **shall not** be eligible for registration within the meaning of the *Health Professions Boards (Procedures) Act 1980*, or the *Dental Technicians and Dental Prosthetists Registration Act 1988*;
 - (ii) that one of the two members appointed in accordance with the provisions detailed in (i) above shall be a legal practitioner; and
 - (iii) the remaining three members who are appointed to the Medical Board by the Minister be registered medical practitioners who have been entitled to practice as a medical practitioner within an Australian jurisdiction at all times for the preceding three years.