

1993

AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY

CHIROPRACTORS AND OSTEOPATHS (AMENDMENT) BILL 1993

EXPLANATORY MEMORANDUM

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Outline

The *Chiropractors and Osteopaths (Amendment) Bill 1993* ("the Bill") amends the *Chiropractors Registration Act 1983* ("the Act") for the purpose of ensuring that the registration and certain other provisions of the Act are consistent with the requirements for registration of chiropractors and osteopaths as recommended by the Australian Health Ministers' Advisory Council (AHMAC) and agreed to by the Australian Health Ministers' Conference and is one of a series of Bills to amend the ACT's legislation regulating health professions for a similar purpose.

The Chiropractors Registration Act 1983

The Act regulates the registration of persons as chiropractors and, in particular, Parts III and IV, respectively, set out the qualifications and requirements for registration as a chiropractor and provide that disciplinary action may be taken by the Chiropractic Board, established under Part II of the Act, in respect of the conduct of a registered chiropractor.

The Chiropractors and Osteopaths (Amendment) Bill 1993

The Bill amends the Act to enable a person to be registered as a chiropractor or as an osteopath, according to the qualifications held by the person, and to otherwise ensure that the provisions relating to registration of chiropractors and osteopaths and disciplinary action which may be taken under the Act comply with the approach to these matters which has been agreed between the States and Territories.

In particular the Bill recognises the entitlement of a person who is registered as a chiropractor or an osteopath in a State or another Territory to registration, in the same field of practice, in the ACT and provides for conditions which may be imposed upon a chiropractor's or osteopath's registration in another jurisdiction or disciplinary action taken against a chiropractor or osteopath in another jurisdiction to be applied in respect of the person's registration in the Territory.

These provisions are intended to be consistent with the mutual recognition principle relating to occupations as set out in section 17 of the Commonwealth *Mutual Recognition Act 1992* ("the Mutual Recognition Act").

The application of that principle to the Territory and to other jurisdictions has given rise to the desirability of adopting agreed minimum requirements for registration as a chiropractor or an osteopath. Unless all jurisdictions where mutual recognition applies have the same standard for registration of a person as a chiropractor or osteopath, a jurisdiction with a lower standard will provide a means for a person who satisfies that standard, but not the higher standards required in other jurisdictions, to gain registration in those other jurisdictions under the mutual recognition principle.

The Bill also changes the title of the Chiropractic Board, established pursuant to Part II of the Act, to the Chiropractors and Osteopaths Board and requires the Board to undertake a review of the qualifications of those persons registered as a chiropractor, on the commencement of the Bill, to determine whether the registration of any of those persons should be transferred to registration as an osteopath. Where the Board decides a person who is registered as a chiropractor should, instead, be registered as an osteopath a person affected by such a decision is entitled to a review of the decision by the ACT Administrative Appeals Tribunal.

Financial implications

There are no financial implications arising from the Bill.

Details of the Bill are included in the Attachment.

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MAIN AMENDMENTS

Clause 11- Repeal and substitution of new registration provisions

Clause 11 repeals sections 11, 12, 13 and 14 of the Act and divides Part III of the Act into five new Divisions. Section 11 requires the Board to keep a register of chiropractors and sections 12, 13 and 14 set out the qualifications and other general requirements for registration as a chiropractor.

These provisions are replaced with proposed new sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 14A, 14B, 14C, 14D, 14E, 14F, 14G, 14H, 14J, 14K, 14L and 14M dealing with requirements for registration as a chiropractor or an osteopath, including registration procedure.

Registration based on qualifications and training

New section 5 deals with the requirements for registration as a chiropractor or an osteopath where the applicant relies upon his or her qualifications and training.

New subsection 5(1) entitles a person to registration as a chiropractor or an osteopath if he or she -

- is a graduate of a course of study and training in chiropractic or osteopathy, as the case requires, offered by -
 - an Australian institution in a State or Territory, being a course that is accredited in writing by the Board or recognised by a registration authority in that State or Territory; or
 - an overseas institution, being a course accredited in writing by the Board;
- and has, if required by the Board -
 - passed to the satisfaction of the Board an examination conducted by or on behalf of the Board in accordance with a determination made, on the Board's recommendation, by the Minister and published in the *Gazette*; or

undertaken training or gained experience, in Australia, in the practise of chiropractic or osteopathy, as the case requires, for a period of up to 12 months.

New subsection 5(2) prohibits the Board from accrediting a course offered by an overseas institution unless the course is substantially equivalent to a course offered by an Australian institution in a State or Territory.

New subsection 5(3) specifies that registration granted under new section 5 is unconditional registration.

Registration under mutual recognition principle

New section 6 entitles a person who is licensed or registered as a chiropractor or osteopath in a State or another Territory that is a participating jurisdiction, within the meaning of the Mutual Recognition Act, to registration as a chiropractor or osteopath under the Act.

New subsection 6(2) entitles such a person to unconditional registration under the Act where that person's registration in the other State or Territory is unconditional.

New subsection 6(3) qualifies the right of such a person to be registered under the Act by restricting registration under the Act to registration subject to the same conditions (if any) as apply to the person's registration in the other jurisdiction where the person is registered.

Registration at the discretion of the Board

New section 7 provides the Board with a discretion to register a person, in a range of circumstances, notwithstanding that the person is not entitled to registration pursuant to new sections 5 or 6.

New subsection 7(1) enables the Board to register a person as a chiropractor or osteopath for the purpose of filling an unmet area of need provided the Board is satisfied that the person has suitable qualifications and experience to practise in that unmet area of need.

New subsection 7(2) enables the Board to register a person as a chiropractor or osteopath for the purpose of enabling the person to fill a teaching or research

position provided that the person has qualifications that the Board considers appropriate for the purpose and the person's application is supported, in writing, by the institution by which it is proposed that the person be engaged in the teaching or research position.

New subsection 7(3) enables the Board to register a person as a chiropractor or osteopath, on a temporary basis, for the purpose of enabling the person to gain experience or undertake training in the practise of chiropractic or osteopathy, as the case may be, or where the Board is satisfied that it is in the public interest to do so.

New subsection 7(4) provides that the Board may impose such conditions upon registration under this section as the Board considers appropriate.

Interim registration

New section 8 provides for the interim registration of an applicant for registration.

New subsection 8(1) enables the interim registration of an applicant -

- . in the case of a person entitled to registration under new section 5, where it is not practicable to wait for the Board to consider the application; or
- . where a person would be entitled to registration under new section 5 but for the fact that a degree or award to which the person is entitled has not yet been conferred or granted by the institution concerned.

New subsection 8(2) enables a person authorised by the Board to grant interim registration to an applicant for registration, in accordance with the section. This will enable a person nominated by the Board, such as a member of the Board, to grant interim registration to an applicant for registration in circumstances where it may be some time before the Board will find it possible to meet to consider a person's application.

New subsection 8(3) provides that interim registration remains in force until the person to whom it is granted is given written notice that -

- . registration has been granted;
- . registration has been refused; or
- . the interim registration has been cancelled.

New subsection 8(4) gives the Board the discretion to cancel a person's interim registration for any reason it considers proper and requires the Board to immediately notify a person, in writing, of the cancellation of his or her interim registration.

The effect of **new subsection 8(5)** is that a person who holds interim registration is taken to be a registered chiropractor or osteopath, as the case may be.

The effect of **new subsection 8(6)** is to backdate the commencement of a person's registration to the date upon which interim registration was granted, where a person who is granted interim registration is subsequently registered as a chiropractor or osteopath.

New subsection 8(7) treats interim registration as having been granted by the Board.

Conditions of registration in cases of impairment

New section 9 deals with conditions which may be imposed upon the registration of a person as a chiropractor or an osteopath where the person suffers from an impairment. The term impairment is defined in **new section 3B** to encompass physical or mental impairment, a disability or condition or disorder which detrimentally affects, or is likely to detrimentally affect, a person's physical or mental capacity to practise chiropractic or osteopathy, and it includes habitual drunkenness or addiction to a deleterious drug.

New subsection 9(1) enables the Board to impose conditions upon a person's registration where the Board is satisfied that the person suffers from an impairment and the conditions are reasonably required having regard to the impairment.

New subsection 9(2) enables the Board to review conditions imposed upon a person's registration under **new section 9**, and to alter or remove such conditions or impose new conditions where the Board is satisfied that the person no longer suffers from the impairment or that the degree of the impairment has reduced.

Refusal of registration where applicant convicted of offence

New section 10 gives the Board a discretion to refuse to register an applicant for registration if the applicant has been convicted of an offence in the Territory or convicted in a court elsewhere of an act or omission which, had it taken place in the

Territory, would have constituted an offence, where the Board is of the opinion that the conviction renders the person unfit, in the public interest, to practise chiropractic or osteopathy.

New subsection 10(2) requires the Board to have regard to the nature of the offence and the circumstances in which it was committed in making its decision.

In order to be consistent with the provisions of subsection 23(1) of the Mutual Recognition Act, relating to refusal of registration, **new subsection 10(3)** specifies that **new subsection 10(1)** does not apply in relation to a person who is entitled to registration pursuant to that Act and who has lodged a notice with the Board pursuant to section 19 of that Act.

Refusal of registration where applicant deregistered outside Territory

New section 11 gives the Board a discretion to refuse to register an applicant for registration if the applicant's name has been removed from a register of chiropractors or osteopaths, as the case may be, kept under the law of another country, State or another Territory for any reason relating to conduct of the person as a chiropractor or osteopath, as the case may be, or on any basis relating to the person's physical or mental capacity to practise chiropractic or osteopathy, as the case may be.

In order to be consistent with the provisions of subsection 23(1) of the Mutual Recognition Act, relating to refusal of registration, **new subsection 11(3)** specifies that **new subsection 11(1)** does not apply in relation to a person who is entitled to registration pursuant to that Act and who has lodged a notice with the Board pursuant to section 19 of that Act.

Applicants to be competent and of good character

New section 12 prohibits the Board from registering a person as a chiropractor or osteopath unless the person is competent to practise chiropractic or osteopathy, as the case may be, and is of good character.

What is meant by "competent to practise" is set out in **new section 3A**.

However, in order to be consistent with the provisions of subsection 23(1) of the Mutual Recognition Act, relating to refusal of registration, **new subsection 12(2)**

specifies that new subsection 12(1) does not apply in relation to a person who is entitled to registration pursuant to that Act and who has lodged a notice with the Board pursuant to section 19 of that Act.

Restriction on registration of deregistered or suspended persons

New section 13 restricts the registration of persons whose registration has been cancelled or suspended. Other than a person whose registration has been cancelled pursuant to new section 14G, that is, as a consequence of cancellation of the person's registration in another jurisdiction, or pursuant to new subsection 14L(2) for non-payment of a fee or whose registration has been suspended pursuant to subsection 24(2) pending the outcome of an inquiry, a person may not apply for re-registration or termination of the suspension, other than by applying to the Board pursuant to new section 26E.

However, in order to be consistent with the provisions of subsection 23(1) of the Mutual Recognition Act, relating to refusal of registration, new subsection 13(2) specifies that new subsection 13(1) does not apply in relation to a person who is entitled to registration pursuant to that Act and who has lodged a notice with the Board pursuant to section 19 of that Act.

Applications for registration

New section 14 applies to applications for registration other than applications from 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.

New subsection 14(2) requires that an application for registration be in a form approved by the Board and be accompanied by the determined fee.

Applications to be considered and determined

New section 14A requires the Board to consider and determine all applications for registration under new section 14 and that the determination of applications is to be by either registering the applicant, unconditionally or otherwise, or by refusing the application.

Registration of applicants

New section 14B requires that where a person who is applying for registration other than under the Mutual Recognition Act applies for registration in accordance with **new section 14** and appears personally before the Board or a nominee of the Board, if required to do so, and is entitled to registration in accordance with the Act, the Board shall register the applicant as a chiropractor or osteopath, as the case may be.

Fee for registration pursuant to Mutual Recognition Act

New section 14C requires an applicant for registration pursuant to the Mutual Recognition Act to pay the determined fee.

Conditions of registration

New section 14D provides that the conditions which the Board may impose on registration at the time of registration relate to the duration of registration, the aspects of practice in which the person who is registered may be engaged and such other matters as the Board considers appropriate.

Register

New section 14E requires the Board to keep a register of chiropractors and a register of osteopaths and provides that a register may be kept by electronic means.

Particulars to be entered in the Register

New section 14F provides that registration is effected by the entering of certain particulars in the Register including particulars relating to the identity and address of the applicant, the qualifications of the applicant, the date of registration and registration number of the applicant and any conditions imposed upon the applicant's registration.

Deregistration on basis of disciplinary action under foreign law

New section 14G provides for the deregistration of a person where that person's name has been removed from a register of chiropractors or osteopaths kept under a law of a State or another Territory or a law of another country.

New subsection 14G(1) requires that the Board cancel the registration of a person where the Board is satisfied that the name of the person has been removed from a register kept under a law of a State or another Territory for any reason relating to the conduct of the person as a chiropractor or osteopath, as the case may be, or on any basis relating to the physical or mental capacity of the person to practise chiropractic or osteopathy, as the case may be.

Where a person whose registration has been cancelled under **new subsection 14G(1)** has his or her name restored to the register for the removal from which the person's registration was cancelled and the person applies for re-registration, **new subsection 14G(2)** requires the Board to re-register the person.

New subsection 14G(3) gives the Board a discretion to cancel the registration of a person where the Board is satisfied that the name of the person has been removed from a register kept under a law of a place outside Australia for any reason relating to the conduct of the person as a chiropractor or osteopath, as the case may be, or on any basis relating to the physical or mental capacity of the person to practise chiropractic or osteopathy, as the case may be.

New subsection 14G(4) gives the Board a discretion to re-register a person whose registration has been cancelled under **new subsection 14G(3)** where the Board is satisfied that it is appropriate in the circumstances to re-register the person.

Imposition of conditions imposed under foreign law

New section 14H provides for the imposition of conditions upon the registration of a person where conditions are imposed upon the registration of that person in another jurisdiction.

New subsection 14H(1) requires that where conditions are imposed upon the registration of a person as a chiropractor or osteopath under the law of a State or another Territory the Board must impose similar conditions upon the registration of the person.

New subsection 14H(2) gives the Board a discretion to impose conditions similar to those it is satisfied have been imposed upon the registration of a person as a chiropractor or osteopath under the law of a place outside Australia.

Cessation of registration

New section 14J provides that a person ceases to be registered as a chiropractor or osteopath -

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

Annual fee payable

New section 14K provides for the payment of an annual fee by a registered chiropractor or osteopath.

New subsection 14K(1) requires that on or before 1 September each year a registered chiropractor or osteopath, as the case may be, pay to the Board the determined fee.

New subsection 14K(2) requires that the Board send to each registered chiropractor or osteopath, at least one month before the due date for payment, a notice requiring the person to pay the fee by the due date.

New subsection 14K(3) precludes a chiropractor or osteopath from relying on a failure of the Board to send such a notice as a basis for avoiding liability to pay the fee by the due date.

Registration to be cancelled for non-payment

New section 14L provides for the cancellation of the registration of a chiropractor or osteopath where the chiropractor or osteopath, as the case may be, fails to pay the annual fee.

New subsection 14L(1) requires that where a chiropractor or osteopath fails to pay the determined fee by the due date the Board must send the chiropractor or osteopath, as the case may be, a notice requiring him or her to pay the fee by a day specified in the notice and advising him or her that if the fee is not paid by that later date his or her registration will be cancelled.

New subsection 14L(2) requires the Board to cancel the registration of a chiropractor or osteopath who fails to pay the fee by the day specified in the notice under **new subsection 14L(1)**.

Entitlement to re-registration on payment of fee

New section 14M provides for the re-registration of a person where the person pays the determined fee.

New subsection 14M(1) entitles a person whose name has been removed from the Register for failure to pay the annual fee to re-registration if he or she applies in accordance with the requirements of the section and pays the determined fee.

New subsection 14M(2) requires that an application for re-registration be in a form approved by the Board and be accompanied by the determined fee.

New subsection 14M(3) qualifies the entitlement of a person to re-registration by limiting it to a right to re-registration on the same terms and conditions (if any) as applied to the person's registration immediately prior to the removal of the person's name from the Register.

New subsection 14M(4) gives the Board a discretion to refuse re-registration to a person where the Board is satisfied that the person is not competent to practise chiropractic or osteopathy, as the case may be, or is not of good character.

New subsection 14M(5) provides that a person's right to re-registration under **new section 14M** is subject to the provisions of the Act relating to removal of a person's name from the Register.

Clause 12 - Certificate of registration

Clause 12 amends section 15 of the Act dealing with certificates of registration.

Paragraph 12(a) amends the section by inserting **new subsection (1A)** to require that a certificate of registration indicates the provision of the Act by virtue of which the certificate holder is entitled to be registered and any conditions to which that person's registration is subject.

Paragraphs 12(b) and (c) effect technical amendments to subsection 15(2) and (3) to bring the language of the provisions into accord with modern drafting practice.

Paragraph 12(d) omits subsections 15(4), (5) and (6) and inserts **new subsections 15 (4), (5), (6), (7) and (8)**.

New subsection 15(4) requires that where the Board notifies a chiropractor or osteopath in writing that his or her registration has been suspended or cancelled the chiropractor or osteopath must, after the expiry of 14 days from the day on which the notice was given, deliver his or her certificate to the Chairperson of the Board.

New subsection 15(5) provides a penalty of a maximum of \$500 for failure to comply with this requirement.

New subsection 15(6) requires that where a person whose registration has been suspended delivers his or her certificate of registration to the Board the Board retain the certificate for the duration of the suspension and return it to the person at the expiration of the period of suspension unless the person's registration is sooner cancelled.

New subsection 15(7) enables the Chairperson of the Board to request in writing that a certificate be delivered to the Board for the purpose of endorsing the certificate to indicate that conditions have been imposed upon the registration of the person to whom the certificate was issued or that conditions imposed upon the registration of that person have been varied.

New subsection 15(8) makes it an offence for a person to fail to comply with a request under **new subsection 15(7)** and provides a penalty of a maximum fine of \$500.

Clause 13 - Repeal of section 16

Clause 13 repeals section 16 of the Act providing for the payment of annual fees by registered chiropractors. This provision is obsolete as a consequence of the insertion of **new sections 14K, 14L and 14M**.

Clause 16 - Repeal of sections 19, 20, 21, 22 and 23

Clause 16 repeals sections 19, 20, 21, 22 and 23 of the Act providing for, respectively, provisional registration, temporary registration, the effect of such types of registration and the cancellation and suspension of registration.

Sections 19 and 20 have been replaced, respectively, by new section 8 and new subsection 7(3) and section 21 is made redundant by the repeal of sections 19 and 20.

Sections 22 and 23, dealing with the cancellation and suspension of registration, are also obsolete as a result of the insertion of new sections 26, 26A, 26B, 26C, 26D and 26E, by *clause 21*.

Clause 17 - Inquiry by Board

Clause 17 amends section 24 of the Act to extend the application of the present requirement that the Board conduct an inquiry before taking certain disciplinary action to require that the Board hold an inquiry prior to taking action under new subsection 26A(2) or new section 26C and to provide for an order for suspension of registration, pending the holding of an inquiry, to be served on the person to whom the inquiry relates.

Clause 19 - Repeal of section 26

Clause 19 repeals section 26 of the Act providing for the re-registration of persons whose registration has been cancelled. This provision is obsolete as a result of the insertion of new section 26E.

Clause 21- Insertion

Clause 21 inserts new sections 26, 26A, 26B, 26C, 26D and 26E, providing for the cancellation and suspension of registration of a chiropractor or osteopath and for other types of disciplinary action to be taken by the Board. It also enables a person whose registration has been cancelled or suspended to seek re-registration or a termination of the suspension.

Cancellation or suspension of registration

New section 26 deals with the cancellation and suspension of registration and gives the Board a discretion to cancel the registration of a person or order the suspension of the person's registration where the Board is satisfied that -

- . the registration of the person was obtained by fraud or misrepresentation;
- . the chiropractic or osteopathic qualification of the person has been withdrawn or cancelled by the body which granted it;
- . the person has contravened a condition of his or her registration;
- . the person has been convicted of an offence punishable by imprisonment for more than one year or any offence which in the opinion of the Board renders the person unfit to practise;
- . the person is guilty of habitual drunkenness, or addiction to deleterious drugs, that renders the person unfit to practise as a chiropractor or osteopath;
- . the person has failed to exercise adequate judgement or care in the practise of chiropractic or osteopathy;
- . the person has engaged in any conduct, whether occurring the practise of chiropractic or osteopathy or not, that adversely affects the practise of chiropractic or osteopathy by the person;
- . the chiropractor or osteopath has contravened the Act or regulations;
- . the person has engaged in any other improper or unethical conduct relating to the practise of chiropractic or osteopathy; or
- . the person is not competent to practise chiropractic or osteopathy.

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

New section 26A deals with the cancellation, suspension or restriction of a person's right to practise on health grounds.

New subsection 26A(1) requires that subject to the provisions of new subsection 26A(2) the Board must cancel the registration, or order the suspension of the registration, of a person where it is satisfied that the mental or physical condition of the person renders him or her unfit to practise.

New subsection 26A(2) gives the Board the option of, instead of cancelling or suspending the registration of a person, directing by order, that the person not give or perform specified chiropractic or osteopathic services where the Board is satisfied that the person remains fit to give or perform some services.

New subsection 26A(3) enables the Board, where it is requested to do so, to review the order and, where it is satisfied that the mental or physical condition of the person in respect of whom the order was made has changed, the Board may amend or remove the order.

New subsection 26A(4) deems a person upon whom the Board has served an order suspending or restricting practising rights and who provides a chiropractic or osteopathic service in contravention of such an order to be other than a registered chiropractor or osteopath, as the case may be.

Practising when registration suspended

New subsection 26B gives the Board a discretion to cancel or order the further suspension of a person whose registration has been suspended and who is convicted of an offence of practising chiropractic or osteopathy or holding himself or herself out as a chiropractor or osteopath whilst the person is deemed to be other than a registered chiropractor or osteopath, as the case may be.

Power of Board to caution, reprimand, etc.

New section 26C provides the Board with a range of disciplinary or counselling options in addition to cancellation or suspension of registration or restriction of practising rights.

It permits the Board to do one or more of the following in relation to the conduct of a registered chiropractor or osteopath -

- caution or reprimand the chiropractor or osteopath;
- order the chiropractor or osteopath to seek and undergo medical or psychiatric treatment or counselling;
- impose appropriate conditions on the chiropractor's or osteopath's registration; and
- order the chiropractor or osteopath to complete specified educational courses.

However, in order to be consistent with the provisions of paragraph 20(4)(b) of the Mutual Recognition Act, **new subsection 26C(2)** specifies that **new paragraph 26C(1)(d)**, enabling the Board to order a chiropractor or osteopath to complete

specified educational courses, does not apply to a person who has obtained registration pursuant to that Act.

Power of Board to impose fines

New section 26D provides the Board with a power to impose a fine upon a registered chiropractor or osteopath.

New subsection 26D(1) enables the Board to impose a fine where the Board finds that a chiropractor or osteopath has failed to comply with an order of the Board under **new section 26C**. However, this power is qualified by the operation of **new subsection 26D(2)** which prohibits the Board from imposing a fine in respect of conduct for which a court has already imposed a fine or other penalty.

New subsection 26D(3) requires that a fine be paid to the Territory within the time specified in the order imposing the fine and **new subsection 26D(4)** empowers the Board to cancel or order the suspension of the registration of a chiropractor or an osteopath where the registered chiropractor or osteopath fails to comply with the order imposing the fine.

Application for re-registration

New section 26E enables a person whose registration has been cancelled other than because of his or her de-registration in another jurisdiction or for non-payment of an annual fee or suspended otherwise than pending an inquiry by the Board, to 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 the person should be re-registered or his or her suspension should be terminated.

New subsection 26E(2) gives the Board a discretion to order the re-registration of such a person or the termination of the suspension of registration of such a person where the Board is satisfied that by reason of the change of circumstances the person should be re-registered or his or her suspension be terminated, as the case may be.

Clause 22 - Repeal of sections 56 and 57 and substitution

Clause 22 repeals sections 56 and 57 of the Act which provide for, respectively, appeals against particular decisions of the Board and the notification of a person

whose interests are adversely affected by such a decision of the Board. These provisions are replaced by new sections 56 and 57.

Review of decisions

New section 56 enables a person to apply to the ACT Administrative Appeals Tribunal in respect of a decision of the Board to -

- . impose conditions upon registration;
- . cancel interim registration;
- . refuse to review conditions imposed on the registration of a person;
- . refuse to alter or remove conditions imposed on the registration of a person;
- . impose new conditions on the registration of a person;
- . refuse to register a person;
- . refuse to re-register a person;
- . cancel the registration of a person;
- . suspend the registration of a person;
- . direct a person not to provide a specified chiropractic or osteopathic service;
- . refuse to review an order, or amend or remove an order, directing a person not to provide a specified chiropractic or osteopathic service;
- . take action under new section 26C in relation to a registered chiropractor or osteopath;
- . impose a fine on a person;
- . refuse to terminate the suspension of registration of a person;
- . certify the amount which is, in the Board's opinion, a reasonable amount of fees or remuneration for a chiropractic or osteopathic service; or
- . refuse to extend beyond 6 months the period during which the executor or executrix of a deceased registered chiropractor's or osteopath's estate or the administrator or administratrix or trustee of such an estate may continue the business of the deceased;
- . fix a period longer than 6 months during which the executor or executrix of a deceased registered chiropractor's or osteopath's estate or the administrator or administratrix or trustee of such an estate may continue the business of the deceased.

Notification of decisions

New section 57 deals with the notification of persons affected by decisions of the Board.

New subsection 57(1) requires the Board to give written notice of particular decisions of the Board, in respect of which an appeal may be made to the ACT Administrative Appeals Tribunal, to the person affected by the relevant decision.

New subsection 57(2) requires that a notice to a person of a decision referred to in **new subsection 57(1)** or under **new subsection 8(4)**, advising of the cancellation of interim registration, or a notice under section 31 of the *Health Professions Boards (Procedures) Act 1981* include a statement advising the person of his or her right to appeal to the Administrative Appeals Tribunal and of his or her rights in respect of the provision of a statement of reasons for the decision.

New subsection 57(3) imposes a similar requirement in respect of a notice to a person in relation to an order suspending the person's registration, restricting the person's right to practise chiropractic or osteopathy or fining the person.

New subsection 57(4) prevents the validity of a decision of the Board dealt with in **new subsections 57(2)** and **(3)** from being affected by a failure to comply with the notification requirements of **new section 57**.

Clause 23 - Publication of notice of decision

Clause 23 amends section 65 of the Act which enables the publication in the *Gazette* of a notice in respect of decisions of the Board or of the Administrative Appeals Tribunal, where the Tribunal reviews a decision of the Board.

The amendment extends the application of the provision to decisions -

- imposing a condition on the registration of a person;
- to direct a person to refrain from providing a specified chiropractic or osteopathic service;
- ordering disciplinary or counselling action pursuant to **new section 26C**; and
- the imposition of a fine under **new section 26D**.

TRANSITIONAL PROVISIONS

Clause 26 - Register

The effect of *clause 26* is to make the Register of chiropractors required to be kept under **new section 14E** a continuation of the Register of chiropractors required to be kept under repealed section 11.

Clause 27 - Continuation of registration

Clause 27 preserves the registration of persons who were registered, immediately before the commencement of the provisions of the Bill, under those provisions of the Act which are repealed by the Bill and replaced with new registration provisions.

Clause 28 - Provisional registration

Clause 28 has the effect of converting the provisional registration held by a person immediately prior to the repeal of section 19 and the commencement of **new section 8** to interim registration under **new section 8**.

Clause 29 - Failure to pay annual fee under repealed provisions

Clause 29 has the effect of converting a failure to pay an annual fee under provisions which are repealed by the Bill to a failure to pay under the equivalent new provisions inserted in the Act.

Subclause 29(1) treats a failure to pay the annual fee under section 16, which is repealed by the Bill, as a failure to pay the annual fee under **new section 14K**.

Subclause 29(2) treats the cancellation of a chiropractor's registration for a failure to pay an annual fee under section 16, which is repealed by the Bill, as a cancellation of registration for failure to pay an annual fee under the provisions of **new section 14L**, thus entitling the person to apply for re-registration under the provisions of **new section 14M**.

Clause 30 - Applications for registration

Clause 30 treats an application for registration, under the provisions of the Act repealed by the Bill, which application had not been determined prior to the commencement of the new registration provisions, as an application for registration under the new provisions and authorises any inquiry or investigation for the purposes of the application to be continued or completed.

Clause 31 - Continuation of inquiries and reviews

Subclause 31(1) preserves the application of the provisions of the Act in force immediately prior to the commencement of the amendments effected by the Bill in relation to any inquiry or review commenced under the Act and pending immediately before the commencement of the amendments.

Subclause 31(2) treats an order, decision or determination resulting from an inquiry or review under the Act immediately prior to its amendment by the Bill as an order, decision or determination made under the Act as amended by the Bill and as having effect accordingly.

Clause 32 - Complaints relating to previous conduct

Subclause 32(1) enables the holding of an inquiry under the Act, as amended by the Bill, with respect to conduct or any other matter or thing that occurred before, or partly before or partly after, the commencement of the amendments.

However **subclause 32(2)** qualifies this provision to the effect that such an inquiry may only be held if it is an inquiry which could have been held under the Act prior to the commencement of the amendments.

Clause 33 - Existing orders

Clause 33 converts an order which has effect under a provision of the Act repealed by the Bill to an equivalent order under the Act as amended.

Clause 34 - Transfer of registration

Clause 34 requires a review by the Board of the qualifications of all persons registered as chiropractors for the purpose of determining whether any person so registered should, instead, be registered as an osteopath.

Subclause 34(1) requires that the Board, on the commencement of the Bill, review the registration of all registered chiropractors and that where it considers that a registered chiropractor would not be entitled to registration as a chiropractor under new section 5, the Board notify the registered chiropractor in writing, requiring the registered chiropractor to show cause why his or her registration should not be transferred to registration as an osteopath.

Subclause 34(2) provides that where a registered chiropractor who has been served with such a notice fails to establish that his or her registration should not be transferred, the Board must transfer that person's registration unless it considers there is good reason why the person's registration should not be transferred.

Subclause 34(3) requires the Board to give a registered chiropractor upon whom a notice has been served under *subclause 34(1)* an opportunity to make submissions to the Board and requires the Board to consider any such submission.

Clause 35 - Review of decision

Clause 35 provides a right of appeal to the Administrative Appeals Tribunal to registered chiropractor whose registration is transferred to registration as an osteopath pursuant to *clause 34* and requires that where the Board makes a decision to so transfer a person's registration the Board must notify the person, in writing, including in the notice details concerning the person's right to seek a review of the decision.

Clause 36 - Return of certificate of registration

Clause 36 requires that where the Board transfers the registration of a chiropractor to registration as an osteopath, pursuant to *clause 34*, the person whose registration has been transferred must return to the Board his or her certificate of registration as a

chiropractor. A maximum penalty of \$500 for failure to comply with this requirement is provided by *subclause 36(2)*.

FORMAL, TECHNICAL AND CONSEQUENTIAL PROVISIONS

Clauses 1 and 2 - Short title and commencement

Clauses 1 and 2 are formal provisions dealing with the short title and commencement of the Bill, respectively.

Clause 3 - Principal Act

Clause 3 is an interpretation provision which defines the term "Principal Act" to mean the *Chiropractors Registration Act 1983*.

Clauses 4 - Long title

Clause 4 is a formal provision which amends the long title of the Act to reflect the expanded ambit of the Act which provides for the registration of osteopaths as well as chiropractors.

Clause 5 - Short title

Clause 5 is a consequential provision which amends section 1 of the Act, providing for the citation of the Act, to reflect the expanded ambit of the Act which provides for the registration of osteopaths as well as chiropractors.

Clause 6 - Interpretation

Clause 6 effects consequential and technical amendments to section 3, an interpretation provision of the Act.

Paragraphs 6(a) and (c) amend definitions in section 3 for a number of terms, consequentially upon the insertion of new provisions in the Act providing for the registration of osteopaths.

Paragraph 6(b) omits the definitions of a number of terms consequentially upon the expanded ambit of the Act which no longer only provides for the

registration of chiropractors, but also provides for the registration of osteopaths.

Paragraph 6(d) inserts definitions for a number of terms used in new provisions in the Act.

Paragraph 6(e) omits subsection 3(2).

Subsection 3(2) is omitted as the meaning of the term "determined fee" has been inserted in subsection 3(1) by *paragraph 6(d)*.

Clause 7 - Insertion

Clause 7 is an interpretation provision which inserts new sections 3A and 3B in the Act which establish what is meant by the expressions "competent to practise" and "to suffer from an impairment", respectively.

Clause 8 - Heading to Part II

Clause 8 effects a consequential amendment to the heading to Part II of the Act reflecting the amendment of the Act to provide for the establishment of a Chiropractors and Osteopaths Board instead of a Chiropractic Board.

Clause 9 - Establishment and constitution of Board

Clause 9 is a consequential amendment to section 4 of the Act providing for, instead of the establishment of the Chiropractic Board, the establishment of the Chiropractors and Osteopaths Board.

Clause 10 - Heading to Part III

Clause 10 effects a formal amendment to the heading to Part III of the Act to better reflect the ambit of that Part.

Clause 14 - Change of address to be notified

Clause 14 is, substantially, a consequential amendment to section 17 of the Act which -

- removes a reference to a provision of the Act which is repealed by the Bill and substitutes a reference to the new provision which replaces that repealed provision of the Act;
- omits a redundant reference to section 16 which is repealed by the Bill; and
- increases the maximum penalty for failure to comply with section 17 from \$100 to \$500.

Clause 15 - Alteration of the Register

Clause 15 effects a consequential amendment to section 18 of the Act, providing for the amendment of the Register, requiring that the name of a registered chiropractor or osteopath must be removed from the Register where the chiropractor's or osteopath's registration has been cancelled.

Clause 18 - Effect of suspension

Clause 18 is a consequential amendment to section 25 of the Act, which provides that where a person's registration has been suspended the person shall, for the period of the suspension, be deemed to be not registered. ***Clause 18*** replaces references to provisions of the Act which are repealed by the Bill with references to the corresponding new provisions, inserted by the Bill.

Clause 20 - Heading to Part IV

Clause 20 amends the heading to Part IV of the Act consequentially upon the amendment of the Act to regulate the conduct of the practice of osteopathy, as well as the conduct of the practice of chiropractic.

Clause 24 - Repeal of sections 70, 71 and 72

Clause 24 is a technical provision which repeals sections 70, 71 and 72 as these are spent provisions.

Clause 25 - Further amendments

Clause 25 is a technical provision which amends the Act in accordance with the Schedule. The Schedule amends various provisions of the Act -

- consequentially upon the inclusion of provisions in the Act providing for the registration of osteopaths and otherwise regulating the practice of osteopathy;
- to remove sexist language; and
- otherwise amend the language used in the Act to reflect modern drafting practice.

Clause 37 - Renumbering of provisions

Clause 37 is a technical provision which effects the renumbering of the Act as amended by the Bill. As a consequence of previous amendments made to the Act and the considerable number of amendments effected by the Bill the numbering of the provisions of the Act has become significantly disrupted. ***Clause 37*** renumbers the sections of the Act in a single series so that they bear consecutive numbers making the legislation more understandable to persons who use it.