

CHIROPRACTORS REGISTRATION ACT 1982

No. 42 of 1982

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CHIROPRACTORS REGISTRATION ACT 1982

—
 No. 42 of 1982
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AN ACT to provide for the regulation of the practice of chiropractic, for the registration of chiropractors, and for incidental matters.

[Royal Assent 28 October 1982]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I

PRELIMINARY

1—This Act may be cited as the *Chiropractors Registration Act* Short title. 1982.

2—(1) This section and section 1 shall commence on the day Commence- on which this Act receives the royal assent. ment.

(2) Part III shall commence on such day (being a day that is not less than 6 months after the day fixed under subsection (3)), as may be fixed by proclamation.

(3) Except as provided in subsections (1) and (2), this Act shall commence on such day as may be fixed by proclamation.

Interpretation.

3—(1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“ authorized officer ” means an officer authorized by the Board under section 9 (1);

“ Board ” means the Chiropractors Registration Board constituted under section 4;

“ chairman ” means the Chairman of the Board;

“ chiropractic ” means—

(a) the application to the human body of manipulation or prescribed procedures for the purpose of curing, alleviating, or preventing a physical disability or abnormality;

(b) the use of, and instruction in, therapeutic exercise and adjustment of the human body for the purpose referred to in paragraph (a); or

(c) the application of supportive or adjunctive procedures for the purpose referred to in paragraph (a),

but does not include the prescribing or use of drugs or the use of operative surgery;

“ functions ” includes duties;

“ medical practitioner ” means a person registered as a medical practitioner under the *Medical Act 1959*;

“ officer ” means a person appointed and holding office under section 7;

“ physiotherapist ” means a person registered as a physiotherapist under the *Physiotherapists' Registration Act 1951*;

“ professional description ” means a description as a chiropractor, an osteopath, or as a chiropractor and osteopath;

“ register ” means the register kept under section 20;

“ the regulations ” means regulations made and in force under this Act;

“ Secretary ” means the person appointed and holding office under section 7 as Secretary to the Board.

(2) A reference in this Act (section 20 excepted) to the name of a person in the register includes a reference to all of the other particulars in the register that relate to that person.

(3) Unless the contrary intention appears, a reference in this Act to a person being registered or to registration is a reference to a person registered under this Act or, as the case may be, to registration under this Act, and such a reference includes a reference to a person temporarily so registered or to temporary registration under this Act and, subject to section 23, includes a person who is provisionally so registered or to provisional registration under this Act.

PART II

THE CHIROPRACTORS REGISTRATION BOARD

Division 1—Constitution and functions, &c.

4—(1) There is constituted by this Act a body to be known as the “Chiropractors Registration Board” Constitution of the Board.

(2) The Board—

- (a) is a body corporate with perpetual succession;
- (b) shall have a seal;
- (c) may acquire, hold, and dispose of real and personal property; and
- (d) may sue and be sued in its corporate name.

(3) All courts, judges, and persons acting judicially shall take judicial notice of the seal of the Board affixed to a document and shall presume that it was duly affixed.

(4) The Board shall consist of 5 persons appointed by the Governor by instrument in writing of whom—

- (a) one shall be a medical practitioner who is an officer of the Department of Health Services nominated by the Director-General of Health Services;
- (b) three shall be persons nominated by the Minister after consultation with such organizations as appear to the Minister to represent the interests of persons practising chiropractic in the State; and
- (c) one shall be a medical practitioner nominated by the Minister after consultation with the Australian Medical Association.

(5) For the purposes of subsection (4) (a), the Director-General of Health Services may nominate himself.

(6) Not later than 3 months before the expiry of the term of office of a member of the Board referred to in paragraph (a) or (c) of subsection (4) or, in the case of a member of the Board so referred to ceasing to hold office before the expiry of the term for which he was appointed, as soon as practicable after that member ceases to hold office, the Minister shall call for a nomination under that paragraph.

(7) If a nomination required by subsection (4) (a) or (c) is not made within 30 days after the date on which the Minister calls for the nomination to be made, the Minister may recommend the appointment of a suitably qualified person for appointment under subsection (4) and thereupon the appointment may be made notwithstanding that the nomination has not been made.

(8) The person referred to in subsection (4) (a) shall be chairman of the Board.

(9) Schedule 1 has effect with respect to the constitution and membership of the Board.

(10) Schedule 2 has effect with respect to the meetings of the Board.

Functions and
powers of
the Board.

5—(1) In addition to the functions conferred or imposed on it by any other provision of this Act, the Board has the following functions:—

- (a) to ensure that high standards for registration as a chiropractor are maintained, and to register qualified persons as chiropractors;
- (b) to ensure that persons registered as chiropractors provide chiropractic services of a high standard and conduct their practices in a competent manner;
- (c) to approve courses for the training of persons seeking to become registered as chiropractors;
- (d) to approve degrees, diplomas, qualifications, and training as qualifications for persons seeking to become registered as chiropractors;
- (e) to arrange, where it thinks necessary, examinations for persons seeking to become registered as chiropractors;
- (f) to investigate any complaint or charge alleging that any person registered as a chiropractor has contravened or failed to comply with the provisions of this Act.

(2) The Board may do all things necessary or convenient to be done for or in connection with, or as incidental to, the performance of its functions under this Act.

(3) The generality of subsection (2) shall not be taken to be limited by any other provisions of this Act conferring a power on the Board.

6—(1) Within 3 months after the end of each financial year, the Board shall submit to the Minister a report of its operations during that financial year. Board to submit annual report to Minister.

(2) The Minister shall cause a copy of any report submitted to him under subsection (1) to be laid on the table of each House of Parliament within the first 14 sitting days after it is received by him.

(3) For the purpose of subsection (2), sitting days shall be counted whether or not they occur during the same session of Parliament.

7—(1) Subject to and in accordance with the *Public Service Act* 1973, there may be appointed a Secretary to the Board and such other officers as may be considered necessary for the purposes of giving effect to this Act. Secretary and other officers.

(2) The office referred to in subsection (1) may be held in conjunction with any other office in the Public Service.

8—(1) Where a member of the Board, the Secretary, or any officer or employee for the time being appointed under section 7 does or purports to do, or omits or purports to omit to do, any act or thing in good faith for the purpose of administering or executing this Act, he shall not be personally subjected to any action, liability, claim, or demand in respect of that act or omission. Protection for members of the Board, &c.

(2) Nothing in subsection (1) shall be construed as precluding the Board itself from being subject to any action, liability, claim, or demand.

9—(1) For the purposes of this section, the Board may authorize an officer to exercise the powers conferred by subsection (2). Powers of authorized officers.

(2) Subject to subsection (4), for the purpose of ascertaining—
 (a) whether a person is contravening or has contravened section 17 or 18;

- (b) whether a person registered as a chiropractor has failed to comply with or contravened or is failing to comply with or contravening any provision of this Act, or any condition, limitation, or restriction imposed by the Board subject to which he may practise chiropractic; or
- (c) whether a person registered as a chiropractor is no longer fit to practise chiropractic,

an authorized officer may, at any reasonable time, enter premises which he has reasonable grounds to believe are used by that person for the purposes of, or in connection with, a practice of chiropractic and may inspect those premises and make such inquiries of that person or any other person on or in those premises as he considers to be necessary for the purposes of this Act.

(3) Any person who obstructs, hinders, threatens, or assaults an authorized officer in the exercise of his powers under subsection (2) is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$500.

(4) The Board shall issue to each authorized officer a certificate of his authority to exercise the powers conferred by subsection (2) and such an officer is not empowered to exercise those powers in relation to any person unless he has previously produced such a certificate to that person.

Division 2—Financial matters

10—There shall be paid to the Board, out of money appropriated by Parliament for the purposes of the Board, such amounts as are payable in accordance with directions from time to time given by the Treasurer.

11—The funds of the Board shall consist of—

- (a) money paid to the Board under section 10;
- (b) money derived by the Board from the sale, leasing, letting on hire, or other disposal by the Board of any property which the Board has power to sell, lease, let on hire, or dispose of;
- (c) income derived from investments made pursuant to section 12 (2);
- (d) all money borrowed by the Board under this Act;
- (e) money derived by the Board from the payment or recovery of fees under this Act; and
- (f) all other money received by the Board from any other source.

Payments to
Board by
Treasurer.

Funds of
Board.

12—(1) Subject to subsection (2), the funds of the Board may be applied only— Application of funds.

- (a) in payment or discharge of the expenses, charges, and obligations properly incurred or undertaken by the Board in the performance of its functions and the exercise of its powers; and
- (b) in the payment of any remuneration and allowances payable under this Act.

(2) Funds of the Board not immediately required for the purposes of the Board may be invested—

- (a) on call or on fixed deposit, or partly on call or partly on fixed deposit with the Treasurer or with any bank approved by the Treasurer;
- (b) in securities of the Commonwealth or of this State or another State;
- (c) in securities of any kind where the principal and interest are for the time being guaranteed by the Commonwealth or by this State or another State; or
- (d) in such other securities as the Treasurer approves or are prescribed for the purposes of this paragraph.

13—(1) The Board may open and maintain an account or accounts with a bank or banks approved by the Treasurer and shall maintain at all times at least one such account to be known as the “Chiropractors Registration Board Account”. Bank accounts.

(2) The Board shall pay all money received by it into an account maintained under subsection (1).

14—(1) The Board shall cause to be kept proper accounts and records in relation to all of its operations and shall do all things necessary to ensure that all payments from its funds are correctly made and properly authorized and that adequate control is maintained over the assets of, or in the custody of, the Board and over the incurring of liabilities of the Board. Accounts and records.

(2) As soon as practicable after 30th June in each year, the Board shall prepare a statement of accounts, in a form approved by the Auditor-General, exhibiting a true and correct view of the financial position of the Board as at that date and the transactions of the Board with respect to the period of 12 months ending on that date.

Audit. **15**—The accounts and records of the Board are subject to the *Audit Act 1918*.

Financial accommodation.

16—In order to provide financial accommodation to the Board—

- (a) the Board may obtain advances by overdraft of current account in any bank or banks on the credit of the Board's funds to such extent as may, from time to time, be approved by the Treasurer; and
- (b) the Treasurer may advance money to the Board, on such terms and conditions as to repayment and interest, as may be agreed on by the Board and the Treasurer.

PART III

RESTRICTIONS ON ENGAGING IN THE PRACTICE OF CHIROPRACTIC

Practice by unregistered persons.

17—(1) A person shall not, for fee or reward, manipulate the joints of the human spinal column or its immediate articulations for therapeutic purposes, unless—

- (a) he is registered under this Act as a chiropractor;
- (b) he is a medical practitioner or physiotherapist and manipulates those joints or articulations in the course of his medical practice or physiotherapy practice;
- (c) he manipulates those joints or articulations in connection with a course of training referred to in section 21 or approved by the Board;
- (d) he manipulates those joints or articulations in connection with an examination held or arranged by the Board pursuant to section 21; or
- (e) he is a person of a class or description prescribed by the regulations.

Penalty: \$1 000.

(2) For the purposes of subsection (1), a person manipulates the joints or articulations referred to in that subsection for fee or reward if he, or any person with whom he is associated, receives a fee or reward for the manipulation or for any attendance, service performed, or advice given by him in connection with the manipulation.

(3) Subsection (1) does not apply to or in respect of a person by reason only of the fact that he applies massage to a person engaged in playing or training for any game, sport, or athletics without the intention of manipulating the joints of the spinal column or its immediate articulations.

18—(1) A person shall not—

- (a) use a professional description; or
- (b) do anything, or cause or permit anything to be done, that is likely to cause a person reasonably to believe that he is a chiropractor,

Use of professional descriptions prohibited.

unless he is a registered chiropractor.

(2) A person registered as a chiropractor shall not use in his practice as a chiropractor a professional description other than that which is for the time being entered on the register in respect of him.

(3) Nothing in this Act affects the use in an academic or scholastic connection of a diploma, certificate, or other academic qualification or title conferred by a university, college, or society having power to do so by the law of the jurisdiction within which it is situated.

Penalty for a contravention of subsection (1) or (2): \$1 000.

19—A person is not entitled to sue for or recover any fee or charge for any chiropractic service, or for any attendance or advice in relation to the practice of chiropractic, unless, at the time when the service was provided or, as the case may be, at the time of the attendance of the giving of the advice, he—

Proceedings for fees barred unless person by whom action is taken is registered.

- (a) was registered as a chiropractor;
- (b) was a medical practitioner or physiotherapist; or
- (c) was a person of a class or description prescribed for the purpose of section 17 (1) (e).

PART IV

REGISTRATION OF CHIROPRACTORS

20—(1) The Board shall keep a register, to be called the “Register of Chiropractors”.

Register of Chiropractors to be kept.

(2) A person shall be registered by the entry in the register of—

- (a) his full name and address;
- (b) the date on which he became first registered;
- (c) particulars of the qualification by virtue of which he is registered;
- (d) where the person is registered temporarily, the fact that he is so registered;

- (e) where the person is registered provisionally, the fact that he is so registered and particulars of any condition, limitation, or restriction imposed on him under section 23;
- (f) the professional description which the Board determines he may use in his practice as a chiropractor; and
- (g) such other particulars (if any) as the Board considers appropriate or as may be prescribed for the purposes of this subsection.

(3) Where the Board becomes aware of any change to any particular entered in respect of a person registered in accordance with subsection (2), it shall amend that particular accordingly.

(4) Where a person registered as a chiropractor applies to the Board to approve a change in his professional description to another such description, the Board may approve that change and amend that particular in the register accordingly, but only if it is satisfied that that person is qualified to use that other description.

(5) A person ceases to be registered under this Act when his registration is cancelled or is otherwise removed in accordance with this Act.

(6) The register shall be open for inspection by members of the public at the Board's office at all times during which that office is open for business.

(7) The Board shall, not later than 31st January in each year, provide the Minister with a copy of the register so far as it relates to persons who were registered under this Act on 31st December in the preceding year, and the Minister shall forthwith cause that copy to be published in the *Gazette*.

Entitlement to registration.

21—(1) Subject to this section, a person is entitled to be registered as a chiropractor if—

- (a) he has attained the age of 18 years;
- (b) he has the prescribed qualification for registration as a chiropractor; and
- (c) he satisfies the Board that he is of good character and is otherwise a fit and proper person to practise chiropractic in this State.

(2) For the purposes of subsection (1) (b), a person is qualified to be registered as a chiropractor if—

(a) he—

- (i) has undertaken a prescribed course of training and has been granted a degree, diploma, certificate, or other academic qualification in recognition of his having successfully completed the course; or
- (ii) has, at an examination arranged by or on behalf of the Board, satisfied the Board that he is competent to practise chiropractic in this State; or

(b) he makes an application to be registered as a chiropractor within 6 months after the date fixed under section 2 (3) and satisfies the Board that—

- (i) he has undergone a form of training in chiropractic to a standard approved by the Board;
- (ii) during the whole of the period of 5 years immediately preceding his application he practised as a chiropractor at a standard approved by the Board;
- (iii) during the whole of the last 2 of those years he practised as such in this State; and
- (iv) where the Board thinks it is necessary to impose such a requirement, he has undergone and successfully completed such further course of training or examination as the Board may require.

(3) For the purposes of this section, the Board may regard a person as not being a fit and proper person to practise chiropractic in this State if it has satisfied itself that—

(a) an application made by him to be registered, or for a licence to practise as, a chiropractor or an osteopath, has, in accordance with a law in force in another State or a Territory of the Commonwealth or in a place outside the Commonwealth (being a law regulating the practice of chiropractic or osteopathy), been refused; or

(b) having been so registered or having held such a licence, any such registration or licence is suspended, or has been cancelled or otherwise terminated, in accordance with such a law.

(4) Where the Board imposes a requirement referred to in subparagraph (iv) of subsection (2) (b), the person concerned is entitled to provisional registration under section 23 as of right until after the first opportunity to complete the course of training or undergo the examination required by the Board in accordance with that subparagraph.

Applications for registration: disposal of applications.

22—(1) Any person who claims to be entitled to be registered as a chiropractor may make an application to be registered as a chiropractor.

(2) An application under subsection (1) shall—

(a) be in writing;

(b) contain the prescribed particulars; and

(c) be accompanied by the prescribed documents (if any) and the prescribed fee.

(3) Where the Board is satisfied that an applicant under subsection (1) is entitled to be registered as a chiropractor, it shall register him in accordance with section 20 (2), but where the Board is not so satisfied, it shall refuse the application.

(4) Whenever the Board refuses an application for registration as a chiropractor, it shall specify the reasons for the refusal and shall cause a notice notifying the refusal and the reasons therefor to be served on the applicant.

(5) The registration of an applicant under subsection (1) shall be subject to such conditions (if any) as are for the time being prescribed in the regulations.

(6) If an application for registration under subsection (1) is refused, the Board shall refund the fee which accompanied the application.

Provisional registration.

23—(1) Where, on consideration of an application for provisional registration, or of an application under section 22 which is refused only on the ground that the applicant was not able to satisfy the Board that, by virtue of section 21 (2), he was qualified to be registered as a chiropractor, the Board is satisfied that it is likely that the applicant will, within 12 months after that consideration, be so, the Board may, subject to this section, provisionally register the applicant as a chiropractor.

(2) A person seeking to be provisionally registered as a chiropractor may make an application in accordance with subsection (3).

(3) An application under subsection (2) shall—

- (a) be in writing;
- (b) contain the prescribed particulars; and
- (c) be accompanied by the prescribed documents (if any) and by the prescribed fee.

(4) The registration of an applicant referred to in subsection (1) may be made subject to such conditions, limitations, and restrictions as the Board determines when considering the application.

(5) A person who is registered under this section shall be deemed not to be so registered in respect of any act or thing done by him in carrying on the practice of chiropractic in contravention of a condition, limitation, or restriction to which his provisional registration is subject.

(6) The registration of a person under this section ceases to have effect, unless it is sooner cancelled, at the expiration of 12 months from the date on which it was granted, but that registration may, on the application of that person, and at the discretion of the Board, be renewed for a single further period not exceeding 12 months from that expiration.

(7) An application under subsection (6) shall—

- (a) be in writing;
- (b) contain the prescribed particulars; and
- (c) unless waived by the Board, be accompanied by the prescribed fee.

(8) Subject to such conditions, limitations, and restrictions as may be imposed under subsection (4), provisional registration under this section has the same effect as if it were registration under section 22 and the provisions of this Act apply accordingly.

(9) If an application for registration or renewal of registration under subsection (2) or (6) is refused, the Board shall refund the fee (if any) which accompanied the application.

24—Where the Board is not immediately able to consider an application under section 22 (1) or 23 (2), the Secretary and 1 member of the Board, or 2 members of the Board, may, if they are reasonably satisfied that the Board would, if the application were then considered by the Board, have registered him under section 22 (3) or provisionally registered him under section 23 (1), register Temporary registration.

the applicant temporarily, or, as the case may be, provisionally register the applicant temporarily, as a chiropractor until the application can be considered by the Board.

Certificate of registration.

25—On the registration of a person under section 22, 23, or 24, the Secretary shall issue to that person a certificate to the effect that he is registered, provisionally registered, or, as the case may be, registered temporarily or provisionally registered temporarily as a chiropractor.

Annual registration fee.

26—(1) Every person registered under this Act shall, on or before 31st March in each year, pay to the Board a fee of such amount as is prescribed for the year commencing on 1st July next following.

(2) If a person registered under this Act does not in any year pay the fee as required by subsection (1), the Board shall forthwith serve on him a notice to the effect that if the fee is not paid on or before a day specified in the notice his registration as a chiropractor will be cancelled.

(3) Where a person on whom a notice is served in accordance with subsection (2) fails to pay the fee on or before the day specified in the notice, the Board may cancel his registration as a chiropractor.

Cancellation of registration of chiropractor on death or on request.

27—(1) Where—

(a) the Board becomes aware that a person registered as a chiropractor has died; or

(b) a person registered as a chiropractor requests in writing that his registration as such be cancelled,

the Board shall cancel the registration of that person.

(2) A request referred to in subsection (1) (b) is not effective unless it is accompanied by the certificate of registration issued under section 25.

False and misleading statements in applications.

28—Any person who, in any application for registration as a chiropractor or in any document provided in support of any such application, makes a statement that is to his knowledge false or misleading as to a material particular is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$1 000 or to imprisonment for a term not exceeding 6 months.

PART V

DISCIPLINARY PROCEEDINGS

29—(1) In this Part—Interpretation:
Part V.

“defendant” means a person on whom a notice to show cause is served under section 32;

“inquiry” means an inquiry under this Part.

(2) Without limiting the generality of the meaning of the expression “misconduct in a professional respect” in this Part, a person registered under this Act is guilty of misconduct in a professional respect if—

- (a) he contravenes or fails to comply with any provision of the regulations or any condition subject to which he is registered as a chiropractor (being a condition that is prescribed in the regulations);
- (b) being provisionally registered as a chiropractor, he contravenes or fails to comply with any condition, limitation, or restriction subject to which he is so registered;
- (c) where a condition, limitation, or restriction is imposed on him under section 34 (2) (d), he contravenes or fails to comply with that condition, limitation, or restriction;
- (d) except where he is acting as a duly appointed *locum tenens*, he practises chiropractic under a name other than—
 - (i) his own name;
 - (ii) a business name consisting of his name and the name of each other person, if any, in association with whom he is so carrying on his practice, without any addition; or
 - (iii) a name approved by the Board;
- (e) he permits the use of his name in connection with the practice of chiropractic at premises at which he or his duly appointed *locum tenens* is not in regular attendance during the hours in which those premises are open for that practice;
- (f) he causes or permits any person to contravene or fail to comply with a provision of Part III at premises used by him or his duly appointed *locum tenens* for the purpose of carrying on the practice of chiropractic; or

(g) he uses or advertises in any way a qualification or title relating to his competence to practise chiropractic that is not shown as his in the register.

(3) For the purposes of subsection (2), a person is not a duly appointed *locum tenens* unless he—

(a) is a person registered as a chiropractor and appointed in writing by another person so registered; and

(b) is employed only during the temporary absence of that other person.

Complaints
against persons
registered
under this Act.

30—(1) A complaint may be made to the Board by any person that a person registered as a chiropractor—

(a) is, on a ground specified in section 34 (1) (a), no longer entitled to be registered;

(b) is, on a ground specified in section 34 (1) (b), unfit to practise chiropractic;

(c) is guilty of misconduct in a professional respect; or

(d) has had a finding of the kind referred to in section 34 (1) (d) made in respect of him.

(2) A complaint under subsection (1) is of no effect unless it—

(a) is in writing; and

(b) contains particulars with respect to the matter complained of, and particulars sufficient to identify the person against whom the complaint is made and the person making the complaint.

Complaints
against persons
formerly
registered
under Act.

31—(1) A complaint may be made to the Board by any person that a person formerly registered under this Act had during the period of 3 years immediately preceding the making of the complaint as a person registered as a chiropractor been guilty of misconduct in a professional respect.

(2) A complaint made under subsection (1) shall be made in the same manner as that provided for a complaint under section 30.

32—(1) The Board shall, if it is of the opinion that as a result of a complaint under section 30 or 31, or as a result of its own investigation, a person registered as a chiropractor or a person formerly so registered should be required to show cause why he should not be dealt with under this Part—

- (a) fix a time and place for the holding of an inquiry; and
- (b) serve on the person complained against a notice in accordance with subsection (2).

(2) A notice served under subsection (1) (b) shall—

- (a) notify the defendant that the Board will hold an inquiry into a matter in respect of which he is required to show cause why he should not be dealt with under this Part;
- (b) give particulars of the matter; and
- (c) subject to subsection (3), specify the time and place for the holding of the inquiry.

(3) The time specified under subsection (2) (c) shall not, without the consent of the defendant, be less than 14 days after the date on which the relevant notice is served.

(4) At the time and place fixed under subsection (1) (a), or such later time and at such place as may be fixed by the Board and notified by notice in writing served on the defendant, the Board shall hold an inquiry into the matter in respect of which the defendant is required to show cause.

(5) An inquiry may be held in the absence of the defendant if the Board is satisfied that the defendant was served in accordance with this section with a notice of the time and place of the inquiry.

(6) Where the Board is satisfied that a complaint made under section 30 or 31 is frivolous or vexatious, it shall dismiss the complaint forthwith.

33—(1) An inquiry shall be held as in open court.

(2) At an inquiry—

- (a) the defendant may appear by himself or may be represented by a legal practitioner or by any other advocate or agent; and

(b) the Board—

- (i) shall comply with the rules of natural justice but otherwise may conduct the inquiry in such manner as it thinks fit;

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- (ii) is not bound to observe the rules of law governing the admission of evidence but may inform itself of any matter in such manner as it thinks fit;
- (iii) may allow the complainant or a person instructed by the Board to appear for the purpose of presenting and adducing evidence to establish the matter in respect of which the defendant is required to show cause;
- (iv) shall allow the defendant to adduce evidence in rebuttal of evidence referred to in subparagraph (iii); and
- (v) may receive in evidence any written submission made by the defendant.

(3) Division 2 of Part II of the *Evidence Act* 1910 applies to an inquiry as if the Board were a board of inquiry referred to in section 14 of that Act.

(4) An inquiry may be adjourned from place to place and from time to time.

Determination
of Board after
inquiry.

34—(1) Where, after holding an inquiry, the Board finds that a person registered as a chiropractor—

- (a) is no longer entitled to be so registered on the ground that—
 - (i) when he applied for registration he made a false or misleading statement; or
 - (ii) he no longer has, or is no longer entitled to have, the diploma, certificate, or other academic qualification by virtue of which he is registered as a chiropractor; or
- (b) is unfit to practise chiropractic on the ground that—
 - (i) he has been convicted in this State of a crime or an offence which is punishable by imprisonment for a term of not less than 6 months or has been convicted elsewhere than in the State of an offence which, if committed in this State, would be a crime or an offence so punishable;
 - (ii) he is guilty of habitual drunkenness or of addiction to a deleterious drug; or

(iii) he has become liable to be detained under the *Mental Health Act 1963* in a hospital, being a hospital within the meaning of section 3 (1) of that Act;

- (c) he is guilty of misconduct in a professional respect; or
- (d) a disciplinary authority exercising jurisdiction in accordance with a law of another State or a Territory of the Commonwealth, or of a place outside the Commonwealth, being a law relating to the practice of chiropractic, has made a finding to the effect that he is guilty of misconduct in relation to the practice by him of chiropractic in that other State, or that Territory or place, and that misconduct would, if committed in this State, have justified the Board in making a determination in respect of him under this section,

the Board shall, subject to this section, make such determination or determinations specified in subsection (2) as it considers appropriate in the circumstances, but, if the Board does not so find, it shall dismiss the complaint.

(2) For the purposes of subsection (1), the following determinations are specified:—

- (a) a determination suspending the registration of a person registered under this Act for a period not exceeding 12 months;
- (b) a determination cancelling the registration of that person;
- (c) a determination imposing a fine not exceeding \$400;
- (d) a determination imposing on that person a condition, limitation, or restriction subject to which he may continue to practise chiropractic.

(3) The Board shall not make in relation to a matter referred to in subsection (1) (a) (ii) a determination other than a determination referred to in subsection (2) (b), nor shall it make a determination referred to in subsection (2) (c) in relation to a matter referred to in subsection (1) (b) (i).

(4) Notwithstanding the provisions of subsection (1), where the Board finds that a person registered as a chiropractor is guilty of misconduct in a professional respect but the Board is not satisfied that he is, by reason of that misconduct, unfit to continue to practise chiropractic, the Board may caution or reprimand him.

(5) The Board shall notify its decision under this section in writing to the defendant and, where the Board makes a determination under subsection (1), it shall include in that notification a statement of its reasons for the determination.

(6) The suspension or cancellation of the registration of a person under this section shall not take effect—

- (a) until the expiration of the period of 14 days after notice of the determination of the Board has been served on that person; or
- (b) where the person lodges an appeal under section 38 before the expiration of the period referred to in paragraph (a), until the appeal is dealt with or withdrawn.

(7) While the registration of a person is suspended under this section, he shall, for the purposes of Part III, be deemed not to be registered as a chiropractor.

(8) Where the Board cancels the registration of a person under this section, it may fix a time before which that person is not eligible to make application to be registered as a chiropractor and, where any such time is fixed, the Board is not obliged to consider any application for registration made by that person before that time.

(9) Where, as a result of a complaint made under section 31, the Board could have made a determination in terms of subsection (2) (b) if the person against whom the complaint was made had, at the time of the hearing, been registered, it may, notwithstanding that that person's registration has been cancelled, fix a time before which that person is not eligible to make an application to be registered again as a chiropractor and, where any such time is fixed, the Board is not obliged to consider any application for registration made by that person before that time.

(10) The Board shall make in the register an entry setting out the terms of every determination under this section.

35—Any person who in any complaint or written submission made under this Part makes a statement that is to his knowledge false or misleading as to a material particular is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$1 000 or to imprisonment for a term not exceeding 6 months.

36—(1) A person whose registration as a chiropractor is suspended or cancelled as a result of a determination made under section 34 shall, within 14 days after that suspension or cancellation takes effect, surrender any certificate of registration issued to him under section 25 by delivering that certificate to the Board. Surrender of certificates.

(2) A person who, without reasonable excuse, fails to comply with subsection (1) is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$200.

37—(1) Where the Board is of the opinion that, as a result of a complaint made under section 30 (1) (c) or 31 (1), or as a result of its own investigation, a person registered or formerly registered as a chiropractor could be required to show cause as to why he should not be dealt with under the provisions of this Part, but that the matter which gave rise to the complaint or investigation may not be sufficiently serious to warrant the holding of an inquiry under this Part, it may, instead, serve on that person a notice in writing requiring him to appear before it for the purpose of enabling him to give an explanation of the matter. Informal proceedings.

(2) Where a person complies with a notice served on him under subsection (1) and the Board, after hearing such explanation as may be given by him, is satisfied that he is guilty of the conduct to which the matter relates and that the matter referred to in subsection (1) is not sufficiently serious to warrant the holding of an inquiry under this Part, it may caution him, but if, after hearing any such explanation, it is not so satisfied, it may dismiss the complaint.

(3) Where, in the course of an appearance by a person before the Board under subsection (2), it becomes apparent to the Board that the matter referred to in subsection (1) is sufficiently serious to warrant the holding of an inquiry under this Part, it may discontinue the hearing and proceed to hold an inquiry under this Part.

(4) Where a person fails to comply with a notice served on him in accordance with subsection (1), the Board may proceed to hold an inquiry under this Part.

PART VI

APPEALS

Right of aggrieved person to appeal to Supreme Court.

38—A person aggrieved—

- (a) by the refusal of the Board to grant an application under section 22 to be registered as a chiropractor;
- (b) by the neglect or delay of the Board to give, within 30 days after the date of receipt by the Board of an application for registration, a decision with respect to that application; or
- (c) by a determination of the Board under section 34 (1), may, within the prescribed period, appeal to the Supreme Court.

Hearing and determination of appeal under section 38.

39—(1) An appeal under section 38 shall be made in accordance with the rules of the Supreme Court and shall be dealt with by way of rehearing and, for the purpose of such a rehearing, section 33 (2) applies to the hearing of the appeal in the same way as it applies in respect of an inquiry under Part V.

(2) The Supreme Court, in deciding an appeal under section 38, may—

- (a) in respect of an appeal under section 38 (a), confirm the refusal or order that the applicant for registration be registered as a chiropractor;
- (b) in respect of an appeal under section 38 (b), order that the applicant for registration be registered as a chiropractor or that the application be refused; or
- (c) in respect of an appeal under section 38 (c), confirm or quash the determination of the Board, or substitute for that determination any other determination that the Board might have made.

(3) The decision of the Supreme Court in respect of an appeal under section 38 is final and the Board shall give effect to the decision accordingly.

(4) The Board shall make in the register such entries as may be necessary to give effect to a decision of the Supreme Court under subsection (2).

PART VII

MISCELLANEOUS

40—A document purporting to be a certificate signed by the Secretary and stating that a person specified in that certificate— Evidentiary certificates.

- (a) was or was not, on a day or during any period specified in that certificate, registered as a chiropractor; or
- (b) was, on a day or during a period specified in that certificate, a person whose registration as a chiropractor was suspended or cancelled,

is admissible in evidence in any legal proceedings (including an inquiry under Part V) and is evidence of the matters specified in the certificate.

41—Where under this Act a document or notice is required or authorized to be served on a person by the Board, the document or notice may be served— Service of documents by the Board.

- (a) by delivering it to him personally; or
- (b) by sending it by registered post to his place of residence or employment.

42—(1) The Governor may make regulations for the purposes of this Act. Regulations.

(2) Without limiting subsection (1), regulations may be made for or with respect to—

- (a) prescribing the manner in which applications for registration may be made;
- (b) prescribing forms of application for, and fees to be paid in connection with, registration;
- (c) providing for the issue and use of certificates of registration;
- (d) prescribing the kinds of particulars to be entered, and the kinds of entries to be made, in the register;
- (e) the regulation of advertising by persons registered as chiropractors in connection with the practice by them of chiropractic;
- (f) prescribing conditions subject to which a person registered as a chiropractor may practise chiropractic;
- (g) prescribing and regulating the standards of premises and equipment to be used in the practise of chiropractic;

- (b) requiring a person claiming to be registered as a chiropractor to produce his certificate of registration at the request of an authorized officer;
- (i) where a person registered as a chiropractor employs or supervises another person who practises chiropractic, prescribing obligations to be fulfilled by the first-mentioned person; and
- (j) prescribing the procedure for holding inquiries under Part V and providing for other matters in relation to such inquiries.

(3) Regulations under this section may be made subject to such conditions, or be made so as to apply differently according to such factors, as may be specified in the regulations or according to such limitations or restrictions, whether as to time or circumstance or otherwise, as may be so specified.

(4) Regulations under this section may provide that it is an offence, punishable on summary conviction, for a person to contravene or fail to comply with any of the regulations and may provide in respect of any such offence for the imposition of a penalty not exceeding \$400 and, in the case of a continuing offence, a further penalty not exceeding \$10 for each day during which the offence continues.

(5) A regulation under this section may authorize any matter or thing to be from time to time determined, applied, or regulated by any person or body specified in the regulation.

Expiry.

43—This Act expires at the expiration of a period of 2 years beginning on the day fixed by proclamation for the purposes of section 2 (3).

SCHEDULE 1

Section 4 (9)

PROVISIONS WITH RESPECT TO THE CONSTITUTION AND MEMBERSHIP OF
THE BOARD

1—(1) A member of the Board shall, subject to this Schedule, hold office Term of office. as such for such term, not exceeding 3 years, as is specified in the instrument of his appointment.

(2) A person is not eligible to be appointed as a member of the Board if he has attained 70 years of age.

2—(1) An officer of the Public Service may hold office as a member of Public servant may be member of the Board. the Board in conjunction with his office in the Public Service.

(2) The provisions of the *Public Service Act 1973* do not apply to or in respect of the appointment of a member of the Board, or to or in respect of a member of the Board in his capacity as such during his term of office.

3—(1) A member of the Board (other than a person who is an officer of Remuneration of members. the Public Service) is entitled to be paid from the funds of the Board such remuneration and allowances as the Governor may from time to time determine in respect of him.

(2) A member of the Board who is an officer of the Public Service is entitled to be paid from the funds of the Board such travelling and subsistence allowances as the Governor may from time to time determine in respect of him.

4—(1) The office of a member of the Board becomes vacant— Vacation of office.

(a) when the term for which he was appointed to hold office expires;

(b) when he dies;

(c) if he becomes bankrupt, applies to take the benefits of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors, or makes an assignment of his remuneration or estate for their benefit;

(d) if he is absent from 3 consecutive ordinary meetings of the Board of which reasonable notice has been given to him, either personally or in the ordinary course of post, unless on leave granted by the Board or, unless, before the expiration of 3 weeks after the last of those meetings, he is excused by the Board for his absence from those meetings;

(e) if he becomes liable to be detained under the *Mental Health Act 1963* in a hospital, being a hospital within the meaning of section 3 (1) of that Act;

(f) if he is convicted in this State of a crime or an offence which is punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in this State of an offence which, if committed in the State, would be a crime or an offence so punishable;

(g) if he is convicted of an offence against this Act;

(b) if he resigns his office by writing under his hand addressed to the Governor and the Governor accepts the resignation; or

(i) if he is removed from office by the Governor under subclause (2).

(2) The Governor may remove a member from office for misbehaviour or incompetence.

(3) If the member of the Board referred to in section 4 (4) (a) ceases to be an officer of the Department of Health Services, his office as a member of the Board becomes vacant.

(4) The Governor may remove a member of the Board from office if he is satisfied, having regard to the information supplied by the person or organization that nominated the member, or, as the case may be, the Minister, that the member is no longer qualified to be appointed to the Board.

(5) If the name of the member of the Board referred to in section 4 (4) (a) or (c) is removed from the register of medical practitioners maintained under section 10 of the *Medical Act* 1959, his office as a member of the Board becomes vacant.

Filling of vacancies.

5—(1) On the occurrence of a vacancy in the office of a member of the Board otherwise than by the expiration of the term for which he was appointed, the Governor may appoint a person to the vacant office for the residue of his predecessor's term of office, being a person qualified and nominated under the same paragraph of section 4 (4) as his predecessor.

(2) If a person is not nominated as referred to in subclause (1), section 4 (7) applies in respect of an appointment to fill the vacancy in the same way as it applies to an original appointment.

Re-appointment of members.

6—A member of the Board is, if he remains qualified for membership of the Board, eligible to be re-appointed at the conclusion of his term of office.

Validity of proceedings, &c.

7—(1) No act or proceeding of the Board or of any person acting pursuant to any direction of the Board is invalidated or prejudiced by reason only of the fact that, at the time when the act or proceeding was done, taken, or commenced, there was a vacancy in the membership of the Board.

(2) All acts and proceedings of the Board or of any person acting pursuant to any direction of the Board are, notwithstanding the subsequent discovery of any defect in the appointment of any member of the Board or that any person was disqualified from acting as, or incapable of being, a member of the Board, as valid as if the member had been duly appointed and was qualified to act as, or capable of being, a member, and as if the Board had been fully constituted.

Presumptions.

8—In any proceedings by or against the Board, unless evidence is given to the contrary, no proof shall be required of—

(a) the constitution of the Board;

(b) any resolution of the Board;

(c) the appointment of any member of the Board; or

(d) the presence of a quorum at any meeting of the Board.

SCHEDULE 2

Section 4 (10)

PROVISIONS WITH RESPECT TO MEETINGS OF THE BOARD

1—Meetings of the Board may be convened by the chairman or by any 2 Convening of meetings of the Board. members of the Board.

2—(1) A majority of the members of the Board shall form a quorum at Procedure at meetings. any duly convened meeting of the Board.

(2) Any duly convened meeting of the Board at which a quorum is present shall be competent to transact any business of the Board.

(3) Questions arising at a meeting of the Board shall be determined by a majority of votes of the members present and voting.

3—(1) The chairman shall preside at all meetings of the Board at which Chairman. he is present.

(2) If the chairman is not present at a meeting of the Board, a member elected by the members present shall preside at that meeting.

(3) The member presiding at a meeting of the Board has a deliberative vote and, in the event of an equality of votes, the motion shall be deemed to have been determined in the negative.

4—The Board shall cause full and accurate minutes to be kept of its Minutes. proceedings at meetings, and shall submit to the Minister a copy of the minutes of each meeting within 14 days after the date on which the meeting is held.

5—The procedure for the calling of, and for the conduct of business at, General procedure. meetings of the Board shall, subject to this Schedule, be as determined by the Board.
