

[AS REPORTED FROM THE SOCIAL SERVICES COMMITTEE]

*House of Representatives, 12 October 1979.*

Words struck out by the Committee are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE]

*House of Representatives, 8 November 1979.*

Words struck out are shown in italics within double bold round brackets, words inserted are shown in roman underlined with a triple rule.

*Hon. Mr Gair*

## MEDICAL PRACTITIONERS AMENDMENT

### ANALYSIS

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### A BILL INTITULED

#### An Act to amend the Medical Practitioners Act 1968

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of 5 the same, as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Medical Practitioners Amendment Act 1979, and shall be read together with and deemed part of the Medical Practitioners Act 1968\* (hereinafter 10 referred to as the principal Act).

(2) (*Section 12 of*) This Act shall come into force on the 1st day of April (*1981*) 1980.

\*1968, No. 46

Amendments: 1970, No. 142; 1972, No. 82; 1973, No. 74; 1977, No. 118; 1977, No. 163; 1978, No. 112

*Struck Out*

(3) Except as provided in subsection (2) of this section, this Act shall come into force on the 1st day of April 1980.

**2. Interpretation**—(1) Section 2 of the principal Act is hereby amended by omitting the definition of the term “Association”, and substituting the following definition: 5

“‘Association’ means the New Zealand Medical Association.”

(2) The said section 2 is hereby further amended by inserting, after the definition of the term “Medical Education Committee”, the following definition: 10

“‘Medical Officer of Health’ has the same meaning as in the Health Act 1956.”

**3. Constitution of Medical Council of New Zealand**—Section 3 (2) (e) of the principal Act is hereby amended— 15

(a) By omitting the word “Dominion”, and substituting the words “New Zealand”:

(b) By omitting the words “New Zealand Council of the Royal College of General Practitioners”, and substituting the words “Royal New Zealand College of General Practitioners”. 20

**4. Medical Education Committee**—Section 8 (1) of the principal Act is hereby amended by repealing paragraph (e), and substituting the following paragraph:

“(e) Five persons, of whom one shall be appointed by the New Zealand Committee of the Royal Australasian College of Physicians, one shall be appointed by the New Zealand Committee of the Royal Australasian College of Surgeons, one shall be appointed by the New Zealand Council of the Royal College of Obstetricians and Gynaecologists, one shall be appointed by the Royal New Zealand College of General Practitioners, and one shall be appointed by the New Zealand Medical Association.” 35

**5. Qualification for conditional registration**—(1) The principal Act is hereby amended by repealing section 15, and substituting the following section:

“15. (1) Except as provided in section 22 of this Act, every person shall be entitled to be conditionally registered under this Act who satisfies the Council that he intends to reside and practise in New Zealand and— 40

- 5 “(a) That he is a graduate in medicine and surgery of a university in New Zealand, or is qualified to graduate in medicine and surgery at such a university, and that, if he has been admitted *ad eundem* at any stage (other than the entrance stage) of the course prescribed for admission to the degrees by virtue of which he is entitled to conditional registration, he has been so admitted with the approval of the Medical Council; or
- 10 “(b) That he is registered or qualified to be registered in the register kept in accordance with the provisions of the Acts regulating the registration of medical practitioners in the United Kingdom or the Republic of Ireland by virtue of a degree, diploma, or other qualification granted by a university or institution in either the United Kingdom or the Republic of Ireland; or
- 15 “(c) That he—
- 20 “(i) Is the holder of a degree, diploma, or other qualification that is specified in the first column of the Third Schedule to this Act and that was granted by the university or institution specified in the second column of that Schedule in relation to that qualification; and
- 25 “(ii) Is registered in the medical register kept in the country in which the degree, diploma, or other qualification was granted; and
- “(iii) Has a reasonable command of the English language:
- 30 “Provided that, if the Council considers that there is good and sufficient reason for the person not being registered in the country in which the degree, diploma, or qualification was granted, it may dispense with that requirement.
- 35 “(2) For the purposes of subsection (1) (a) of this section, a certificate signed by the Registrar or a Deputy Registrar or Assistant Registrar of a university in New Zealand that the person named in the certificate is a graduate in medicine and surgery of the university or is qualified to graduate in
- 40 medicine and surgery at the university, by reason of having passed or having been credited with passing the examinations and having undergone the period of training (if any) required for such graduation, shall be sufficient evidence that the person named is a graduate of the university or is qualified
- 45 to graduate at the university, as the case may require.

“(3) Notice shall be taken judicially, without further proof of appointment, of the signature of the Registrar, Deputy Registrar, or Assistant Registrar, on any certificate referred to in subsection (2) of this section.

“(4) The Governor-General may from time to time, by Order in Council— 5

“(a) Insert in or omit from the Third Schedule to this Act any degree, diploma, or other qualification and the name of the university or institution that granted it: 10

“(b) Revoke the said Third Schedule and substitute a new Schedule therefor.

“(5) Every Order in Council made under subsection (4) of this section shall have effect according to its terms.”

(2) The principal Act is hereby further amended by repealing the Third Schedule (as added by section 5 (3) (b) of the Medical Practitioners Amendment Act 1970), and substituting the Third Schedule set out in the Schedule to this Act.

(3) The following enactments are hereby consequentially repealed: 20

(a) The Second Schedule to the principal Act (as added by section 5 (3) (a) of the Medical Practitioners Amendment Act 1970):

(b) Section 5 of the Medical Practitioners Amendment Act 1970: 25

(c) Section 3 of the Medical Practitioners Amendment Act 1973.

(4) The following orders are hereby consequentially revoked: 30

(a) The Medical Practitioners (Higher Overseas Qualifications) Order 1973 (S.R. 1973/159):

(b) The Medical Practitioners (Overseas Qualifications) Order 1973 (S.R. 1973/288):

(c) The Medical Practitioners (Overseas Qualifications) Order 1974 (S.R. 1974/256): 35

(d) The Medical Practitioners (Overseas Qualifications) Order 1976 (S.R. 1976/250).

#### **6. Qualification for registration as medical practitioners—**

(1) Section 18 of the principal Act is hereby amended by inserting in subsection (1), after the words “who satisfies the Council”, the words “that he intends to reside and practise in New Zealand and”. 40

(2) The said section 18 is hereby further amended by omitting from paragraph (e) of subsection (1) (as added by section 6 (1) of the Medical Practitioners Amendment Act 1970) the words "hospital or institution", and substituting the words "hospitals or institutions or with the general practitioners".

(3) The said section 18 is hereby further amended by omitting from subsection (2) (as substituted by section 6 (2) of the Medical Practitioners Amendment Act 1970) the expression "paragraph (d)", and substituting the expression "paragraph (c)".

**7. Applications for registration**—Section 19 (1) of the principal Act is hereby amended by inserting, after the words "professional ability", the words ", of his intention to reside and practise in New Zealand,".

**8. Restrictions on registration**—The principal Act is hereby amended by repealing section 22, and substituting the following section:

"22. (1) No person shall be entitled as of right to be conditionally registered or registered as a medical practitioner under this Act if he is not a fit person to be so registered by reason of the fact that—

"(a) He has been at any time convicted of any offence punishable by imprisonment for a term of 2 years or longer; or

"(b) He is otherwise not of good reputation or character; or

"(c) The Council is satisfied, after receiving and considering a notice in accordance with subsections (2) to (4) of this section, that he would be (owing to mental or physical disability) unable to perform satisfactorily the duties of a medical practitioner.

"(2) If, at the time of the graduation with a degree in medicine of any person from a university in New Zealand, the Dean of the appropriate Medical School or Clinical School or Faculty considers that the person would be ((owing to mental or physical disability) unable) unable, because of some mental disability or the nature and extent of some physical disability that he has, to perform satisfactorily the duties of a medical practitioner, he (shall) ((may)) shall forthwith give written notice to the Council of all the circumstances.

“(3) In any case where a Dean of a Medical School or Clinical School or Faculty contemplates giving any such written notice to the Secretary to the Council, he may seek whatever medical advice, whether psychiatric or otherwise, he considers appropriate to assist him in forming his opinion. 5  
Any written notice thereafter so given shall mention any difference between any such advice and the views of the Dean as set out in the notice.

“(4) Upon receipt of any such notice, the Secretary to the Council shall forthwith take all necessary steps to have 10  
it considered by the Council.”

**9. Mode of registration**—Section 24 (1) of the principal Act is hereby amended by repealing paragraph (d), and substituting the following paragraph:

“(d) His residential or professional address;” 15

**10. Changes of address**—(1) Section 26 of the principal Act is hereby amended—

(a) By inserting in subsection (1), after the word “Council”, the words “by registered post”:

(b) By omitting from that subsection the words “specifying 20  
where possible the name of the street and the number of the house”.

(2) The said section 26 is hereby further amended by omitting from subsection (2) the words “twenty dollars”, and substituting the expression “\$200”. 25

**11. Restoration of name to register**—Section 27 (4) of the principal Act is hereby amended—

(a) By inserting, after the words “in pursuance of this section”, the words “or section 27A of this Act”:

(b) By inserting, after the words “been so removed”, the 30  
words “and that he is a fit person to be conditionally registered or registered as a medical practitioner in terms of section 22 of this Act,”.

**12. Non-residence in New Zealand**—The principal Act is hereby amended by inserting, after section 27, the following 35  
section:

“27A. (1) If the Council believes on reasonable grounds that any registered medical practitioner who does not hold a degree in medicine from a university in New Zealand has

failed to reside in New Zealand for a period of 6 consecutive months in any period of 3 consecutive years since his registration, it (*shall*) may direct the Secretary to the Council to remove the name of that practitioner from the register, and  
5 the Secretary shall remove that name accordingly.

*Struck Out*

“(2) This section shall not apply with respect to an absence from New Zealand of not more than 3 years for the purpose of postgraduate study.”

10

*New*

“(2) This section shall not apply with respect to any period of absence from New Zealand—

“(a) Before the 1st day of April 1980; or

“(b) Of not more than 3 years for the purpose of post-graduate study.”

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**13. Temporary registration of practitioners visiting New Zealand**—(1) Section 33 of the principal Act is hereby amended by inserting in subsection (2), after the words “purpose of obtaining”, the words “postgraduate training  
20 or”.

(2) The said section 33 is hereby further amended by repealing subsection (5), and substituting the following subsection:

“(5) The Council may from time to time, in its discretion,  
25 substitute another hospital or institution for the one specified in any certificate under this section, or extend the period specified in any such certificate, if it is satisfied that the circumstances in which it was issued still exist. Where any such substitution is made or extension granted, the certificate  
30 shall be surrendered by the holder to the Secretary to the Council who may endorse the substitution or extension on the certificate or issue a new certificate.”

**14. Probationary registration**—(1) Section 33A of the principal Act (as inserted by section 8 of the Medical Practitioners Amendment Act 1970) is hereby amended by inserting in subsection (1), after the words “hospital or other institution”, the words “or with a general practitioner”.

(2) The said section 33A is hereby further amended by inserting in the said subsection (1), after the words “such hospital or institution”, the words “or with such general  
40 practitioner”.

(3) The said section 33A is hereby further amended by inserting in subsection (3) (b), after the word "institution", the words "or general practitioner".

(4) The said section 33A is hereby further amended by inserting in subsection (5), after the word "institution", the words "or with the general practitioner". 5

#### 15. Notification of disability and suspension from practice—

*New*

(1) Section 34 of the principal Act is hereby amended by omitting from subsection ~~((3))~~ (2), and also from subsection (3), the words "(owing to mental or physical disability) unable", and substituting, in each case, the words "unable, because of some mental disability or the nature and extent of some physical disability that he has,". 10

~~((1) Section 34 of the principal Act is hereby amended by)~~ 15

(2) The said section 34 is hereby further amended by inserting, after subsection (3), the following subsection:

"(3A) In any case where the Medical Officer of Health considers that any person who is registered as a medical practitioner or conditionally registered is ~~((owing to mental or physical disability) unable)~~ unable, because of some mental disability or the nature and extent of some physical disability that he has, to perform his professional duties satisfactorily, and that, because he may attempt to perform those duties, it is necessary in the public interest to prevent him from so doing, the Medical Officer of Health shall forthwith give written notice to the Secretary to the Council of all the circumstances." 20 25

(2) (3) The said section 34 of the principal Act is hereby further amended by inserting in subsection (4), after the words "registered medical practitioner" in both places where they occur, the words "or Medical Officer of Health". 30

*New*

15A. Secretary of Disciplinary Committee—Section 40 of the principal Act is hereby amended by repealing subsection (6), and substituting the following subsection: 35

"(6) The General Secretary of the Association or, in his absence, a deputy appointed by the Disciplinary Committee shall be the Secretary of the Disciplinary Committee."



*New*

15b. **Complaints to Disciplinary Committee**—Section 42A of the principal Act (as inserted by section 9 of the Medical Practitioners Amendment Act 1970) is hereby amended by  
5 repealing subsection (3), and substituting the following subsections:

“(3) If the Chairman of the Disciplinary Committee is of the opinion that any complaint is not sufficiently substantial to amount to a charge of professional misconduct but nevertheless amounts to a charge of conduct unbecoming a medical practitioner and that it is desirable in the public interest that it be inquired into, the Chairman may authorise a Divisional  
10 Disciplinary Committee to inquire into that charge.

“(4) Nothing in this section shall limit or restrict the  
15 powers conferred on the Disciplinary Committee or any Divisional Disciplinary Committee by sections 42A to 50 of this Act.”

15c. **Inquiry by Divisional Disciplinary Committee into charge of unbecoming conduct**—The principal Act is hereby  
20 amended by inserting, after section 42A (as inserted by section 9 of the Medical Practitioners Amendment Act 1970), the following section:

“42B. (1) Where a Divisional Disciplinary Committee conducts an inquiry into a charge of conduct unbecoming a  
25 practitioner, it shall give the registered medical practitioner or person conditionally registered a reasonable opportunity to be heard.

“(2) If, after inquiring into the charge, the Divisional Disciplinary Committee is of the opinion that the person against  
30 whom the charge is made has been guilty of conduct unbecoming a practitioner, it may censure that person.”

*Struck Out*

16. **Functions of Disciplinary Committee as to charges of professional misconduct**—Section 43 (2) of the principal Act  
35 is hereby amended by omitting the words “two hundred dollars”, and substituting the expression “\$400”.

*New*

16. **Functions of Disciplinary Committee**—(1) Section 43 of the principal Act is hereby amended by inserting in subsection (1), after the words “professional misconduct”, the  
40 words “or conduct unbecoming a practitioner”.

*New*

(2) The said section 43 is hereby further amended by omitting from paragraph (a) of subsection (2) the words “two hundred dollars”, and substituting the expression “\$1,000”.

5

(3) The said section 43 is hereby further amended by inserting in subsection (2), after paragraph (b), the following paragraph:

“(ba) Impose, for a period not exceeding 3 years, such conditions on the person’s right to practise as a medical practitioner as it thinks fit for the protection of the public or in the person’s interests; and thereupon the person may, for the specified period, practise as a medical practitioner subject to those conditions, but not otherwise:”

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15

**16A. Certain inquiries may be conducted by Divisional Disciplinary Committee**—(1) Section 47 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) If the Chairman of the Disciplinary Committee in any case thinks fit, he may authorise the appropriate Divisional Disciplinary Committee to—

20

“(a) Conduct the hearing of any inquiry into a charge of conduct unbecoming a practitioner, in which case the Divisional Disciplinary Committee shall deal with the case in accordance with section 42B of this Act:

25

“(b) Conduct wholly or in part the hearing of any inquiry into a charge of professional misconduct or any inquiry pursuant to section 44 or section 55 of this Act.”

30

(2) The said section 47 is hereby further amended by omitting from subsection (2) the words “before it”, and substituting the words “of any inquiry under subsection (1) (b) of this section”.

35

**16B. Orders, recommendations, and reports**—Section 52 of the principal Act is hereby amended by inserting in subsection (1), after the words “Disciplinary Committee” in both places where they occur, the words “or Divisional Disciplinary Committee”.

40

(2) To insert in subsection (2), after the words “Disciplinary Committee” where they secondly occur, the words “or Divisional Disciplinary Committee”.

*New*

16c. Appeals from decisions of Divisional Disciplinary Committee—The principal Act is hereby amended by inserting, after section 52, the following section:

5 “52A. (1) An appeal against any order of a Divisional Disciplinary Committee made by it under section 43B of this Act shall lie to the Disciplinary Committee at the instance of the registered medical practitioner or the person conditionally registered to whom the order relates, or at the instance of a  
10 complainant.

“(2) Every such appeal shall be brought by notice of appeal delivered to the Secretary of the Disciplinary Committee within 28 days after the day on which the order was notified to the medical practitioner concerned.

15 “(3) A copy of the notice of appeal shall be forwarded within the same period to each party directly affected by the appeal, and to the Secretary of the Divisional Disciplinary Committee concerned.

“(4) Every such appeal shall be by way of rehearing.

20 “(5) On any such appeal, the Disciplinary Committee may allow the appeal and quash the order, or dismiss the appeal and confirm the order and make an order for the payment of costs and expenses; but it may make no other order or recommendation.”

25 17. Disciplinary powers of Council—(1) Section 58 of the principal Act is hereby amended by omitting from subsection (1) (a) the words “two years’”, and substituting the expression “3 months’”.

*New*

30 (1A) The said section 58 is hereby further amended by omitting from paragraph (c) of subsection (2) the words “five hundred dollars”, and substituting the expression “\$1,000”.

35 (2) The said section 58 of the principal Act is hereby further amended by inserting in subsection (2), after paragraph (c), the following paragraph:

40 “(ca) The Council may, by writing under the hand of the Chairman, impose, for a period not exceeding 3 years, such conditions on the person’s right to practise as a medical practitioner as it thinks fit for the protection of the public or in the person’s

interests; and thereupon the person may, for the specified period, practise as a medical practitioner subject to those conditions, but not otherwise.”

(3) The said section 58 is hereby further amended by inserting, after subsection (2), the following subsection: 5

“(2A) A copy of every decision of the Council under this section shall be served by the Secretary to the Council on the medical practitioner in respect of whom it was made, and shall take effect from the day on which such service was effected, or such later date as may be specified in the decision.” 10

(4) The said section 58 is hereby further amended by repealing subsection (16), and substituting the following subsection:

“(16) Subject to any order of the Court, every decision of the Council against which an appeal is lodged shall continue in force and have effect according to its tenor pending the determination of the appeal.” 15

**18. Council and Committees may require evidence to be given**—Section 61 (3) of the principal Act is hereby amended 20 by omitting the words “two hundred dollars”, and substituting the expression “\$500”.

*New*

**18A. Council and Committees to have certain powers of Commission of Inquiry**—The principal Act is hereby 25 amended by inserting, after section 61, the following section:

“61A. Without limiting anything in section 61 of this Act, the Medical Council, the Penal Cases Committee, the Disciplinary Committee, and any Divisional Disciplinary Com- 30 mittee shall, for the purposes of any inquiry, investigation, or appeal under this Part of this Act, have the same powers as are conferred on Commissions of Inquiry by section 4 of the Commissions of Inquiry Act 1908.”

**19. Publication of orders in *New Zealand Medical Journal***— 35 Section 65 (a) of the principal Act is hereby amended by inserting, after the words “under this Act”, the words “or where the Council has, under section 34 of this Act, suspended from practice any registered medical practitioner or person conditionally registered,”. 40

20. **Annual practising certificates**—(1) Section 67 of the principal Act is hereby amended by omitting from subsection (1) the words “ten dollars”, and substituting the expression “\$100”.

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*Struck Out*

(2) The said section 67 is hereby further amended by inserting in subsection (2), after the words “any such person,”, the words “and on being satisfied that that person has either been registered within the 2 preceding years or has resided in New Zealand since his registration for a period of 6 consecutive months within the preceding 3 years,”.

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*New*

(2) The said section 67 is hereby further amended by adding to subsection (2), the following proviso:

15 “Provided further that if, on any such application, the Secretary to the Council is satisfied that the applicant (not being the holder of a degree in medicine from a university in New Zealand)—

20 “(a) Has not been registered within the 2 years preceding the date of the application; and

“ (b) Has not resided in New Zealand since his registration for a period of 6 consecutive months within the 3 years preceding that date,—

25 the Secretary shall refer the case to the Council, and the Council may direct that a practising certificate shall not be issued to the applicant.”

21. **Penalty for wrongfully using title of medical practitioner**—Section 69 of the principal Act is hereby amended—

30 (a) By omitting from subsection (1) the words “fifty dollars”, and substituting the expression “\$500”:

(b) By omitting from subsection (3) the words “one hundred dollars”, and substituting the expression “\$1,000”.

22. **Appointments to be held only by medical practitioners**—

35 Section 70 (2) of the principal Act is hereby amended by omitting the words “two hundred dollars”, and substituting the expression “\$2,000”.

## SCHEDULE

Section 5 (2)

NEW THIRD SCHEDULE SUBSTITUTED IN PRINCIPAL ACT

Section 15 (1) (c) (i)

"THIRD SCHEDULE

"OVERSEAS QUALIFICATIONS FOR CONDITIONAL  
REGISTRATION

<u>First Column</u> Qualifications	<u>Second Column</u> University or Institution
COMMONWEALTH OF AUSTRALIA	
1. Bachelor of Medicine and Bachelor of Surgery	University of New South Wales.
2. Bachelor of Medicine and Bachelor of Surgery	University of Sydney.
3. Bachelor of Medicine and Bachelor of Surgery	University of Queensland.
4. Bachelor of Medicine and Bachelor of Surgery	University of Adelaide.
5. Bachelor of Medicine and Bachelor of Surgery	University of Melbourne.
6. Bachelor of Medicine and Bachelor of Surgery	Monash University.
7. Bachelor of Medicine and Bachelor of Surgery	University of Tasmania.
8. Bachelor of Medicine and Bachelor of Surgery	University of Western Australia.
CANADA	
9. Doctor of Medicine	University of Alberta.
10. Doctor of Medicine	University of British Columbia.
11. Doctor of Medicine, Master of Surgery	Dalhousie University.
12. Doctor of Medicine	Dalhousie University.
13. Doctor of Medicine	Laval University.
14. Doctor of Medicine	University of Manitoba.
15. Doctor of Medicine	University of Montreal.
16. Doctor of Medicine, Master of Surgery	McGill University.
17. Doctor of Medicine	University of Ottawa.
18. Doctor of Medicine, Master of Surgery	Queen's University.
19. Doctor of Medicine	Queen's University.
20. Doctor of Medicine	University of Saskatchewan.
21. Doctor of Medicine	University of Toronto.
22. Doctor of Medicine	University of Western Ontario.
23. Doctor of Medicine	University of Calgary.
24. Doctor of Medicine	McMaster University
25. Doctor of Medicine	Memorial University.
26. Doctor of Medicine	University of Sherbrooke.

SCHEDULE—*continued*

“THIRD SCHEDULE—*continued*

<u>First Column</u>	<u>Second Column</u>
Qualifications	University or Institution
REPUBLIC OF SOUTH AFRICA	
27. Bachelor of Medicine and Bachelor of Surgery	University of Cape Town.
28. Bachelor of Medicine and Bachelor of Surgery	University of Natal.
29. Bachelor of Medicine and Bachelor of Surgery	University of Pretoria.
30. Bachelor of Medicine and Bachelor of Surgery	University of Stellenbosch.
31. Bachelor of Medicine and Bachelor of Surgery	University of the Witwaters- rand.”