

Medical Practitioners Act 1867

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An Act to constitute a Medical Board for the Colony of New Zealand and to define the Qualifications of Practitioners in Medicine and Surgery.

Preamble.

Whereas it is expedient to regulate and define the qualifications of Practitioners in Medicine and Surgery

Be it therefore enacted by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows—

1 Short Title.

The Short Title of this Act shall be “The Medical Practitioners’ Act 1867.”

2 Acts and Ordinances repealed.

The several Acts and Ordinances particularly mentioned and specified in the Schedule A. to this Act shall be and the same are hereby respectively repealed except so far as regards acts done offences committed or penalties incurred before the passing of this Act.

3 Governor in Council to appoint a Medical Board.

It shall and may be lawful for the Governor by Order in Council to nominate and appoint a Board consisting of not less than five nor more than ten members of whom not less than two thirds shall be members of the medical profession and qualified to be registered under this Act one of whom shall be nominated by the Governor to be President of the said Board and such Board shall be called “The Medical Board” and it shall be lawful for the Governor with the advice and consent of the Executive Council at any time and from time to time to remove the said members or any of them and upon the removal death or resignation of the said members or any of them to appoint such other person or persons as he shall think fit.

4 Resignation or death of members.

The members of the said Board shall be nominated for a term of five years and shall be capable of re-appointment and any member may at any time resign his appointment by letter addressed to the Governor and upon the death resignation or removal as aforesaid of any member of the said Board some other person shall be nominated and appointed as aforesaid a member of the said Board in his place but it shall be lawful for the said Board during such vacancy to exercise the powers hereinafter contained.

5 Time and place of meeting.

The Board shall hold its first meeting within three months from the commencement of this Act in such place and at such time as the Governor shall appoint and shall make such rules and regulations as to the times and places of the meetings of the Board and the mode of summoning the same as to them shall seem expedient which rules and regulations shall remain in force until altered at any subsequent meeting and in absence of any rule or regulation for summoning a meeting of the Board it shall be lawful for the President to summon a meeting at such time and place as to him shall seem expedient by letter addressed to each member and at every meeting in the absence of the President some other member to be chosen from the members present shall act

as President and all orders of the Board shall be decided by the votes of the majority of the members present at any meeting the whole number present not being less than three and at all such meetings the President for the time being shall in addition to his vote as a member of the Board have a casting vote in case of an equality of votes.

6 Appointment of Registrar.

The Board shall appoint a Registrar who shall act also as Secretary of the Board and who may act also as Treasurer until the Board shall appoint another person the Board shall also appoint so many clerks and servants as shall be necessary for the purposes of this Act and every person so appointed shall be removable at the pleasure of the Board and shall be paid such salary as the Board shall think fit out of the fees received by it and it shall be lawful for a member of the Board to hold all or any of the said offices of Registrar Secretary and Treasurer.

7 Payment of members.

There shall be paid to the President and members of the Board out of the fees aforesaid such fees for attendance as shall be allowed by the Governor by any Order in Council Provided that the Governor may so long as he sees fit abstain from allowing any fees or other payment to the President and members of the Board.

8 Expenses of Board.

All money payable to the Board shall be paid to the Treasurer and shall be applied to defray the expenses of carrying this Act into execution and true accounts shall be kept by the Treasurer of the Board of the expense of the said Board and the Treasurer shall enter in a book kept for that purpose true accounts of all money paid by him and of all money received by him and a copy of such accounts signed by the President and two members of the Board shall be delivered to the Colonial Treasurer annually on the thirty-first day of March in every year and such accounts shall be laid before both Houses of the General Assembly in the month of April in every year if it be sitting and if not sitting then within ten days after the next meeting of the General Assembly.

9 Duty of Registrar.

It shall be the duty of the Registrar to keep the register correct in accordance with the provisions of this Act and the orders and regulations of the Board and to erase the names of all registered persons who shall have died and from time to time to make the necessary alterations in the addresses or qualifications of the persons registered under this Act.

10 Registration of persons qualified or hereafter becoming qualified.

Every person now possessed and every person hereafter becoming possessed of any one or more of the qualifications described in Schedule B. to this Act shall be registered on production to the Board or a quorum thereof of the document conferring or evidencing the qualification or each of the qualifications in respect whereof he seeks to be so registered or upon transmitting by post to the Registrar information of his name and address and the like documentary evidence of the qualification or qualifications in respect of which he seeks to be registered and of the time or times at which the same was or were respectively obtained or upon two of the examiners of qualifications hereinafter mentioned transmitting to such Registrar a certificate in writing under their hands that such person is in their opinion possessed of the qualifications or of each of the qualifications in respect of which he seeks to be so registered and stating fully the name and address of such person Provided that the Board may if it think fit require the personal attendance before the Board of any person seeking or applying to be registered.

11 Examiners of qualifications

In every Province other than the Province of Wellington the Resident Magistrate in the chief town and a medical practitioner practising in such Province who shall for this purpose be appointed by the Governor to act as assessor shall jointly be examiners of qualifications and every person who shall desire to be registered may instead of producing or transmitting such documentary evidence as aforesaid to the Board produce or transmit to either of such examiners at the place where any such shall have appointed the document or documents conferring or evidencing the qualifications or each of the qualifications in respect of which he seeks to be registered and of the time or times at which the same was or were respectively obtained and information of his name and address and such examiners shall consider the documentary evidence so produced or transmitted and if satisfied that such person is possessed of the qualification or qualifications in respect of which such person seeks to be registered shall so certify and transmit a certificate to that effect to the Registrar under the hands of such examiners Provided that any such examiners if they think fit may require the personal attendance before them of any person seeking or applying to be registered and who shall have produced or transmitted to such examiners or one of them such document or documents as aforesaid.

12 Certain persons in practice at the time of Act coming into force to be registered.

Any person who shall prove on personal attendance before the Board to the satisfaction of the said Board that he has passed through a regular course of medical study of not less than three years' duration in a school of medicine or surgery and that he has received after due examination from some university college or other body duly recognized for that purpose in the country to which

such university college or other body may belong a diploma degree or license other than those specified in Schedule B. entitling him to practise medicine or surgery in that country whether such country be within Her Majesty's dominions or not shall be entitled to be registered under this Act.

13 Persons registered under English Medical Act may be registered.

Every person who shall have been registered as a legally qualified practitioner in England Ireland or Scotland under the Acts of the Imperial Parliament of Great Britain and Ireland specified in the Schedule hereto marked D. shall be entitled to be registered by the Medical Board on his submitting to the Board satisfactory proofs of his having been so registered Provided that it shall not be compulsory upon any person registered under the said Acts to be registered under this Act.

14 Persons being in practice and holding certificate under repealed Ordinances to be registered.

Every person shall be entitled to be registered under this Act who was in actual practice in medicine or surgery in New Zealand before the year one thousand eight hundred and fifty-seven or who being in actual practice in medicine or surgery at the time of the coming into force of this Act shall hold a certificate as a legally qualified medical practitioner under the Ordinance of the Legislative Council of New Munster hereinbefore repealed and intituled "An Ordinance to define the qualifications and to provide for the remuneration in certain cases of Medical Practitioners" or who being in actual practice in medicine or surgery in the Province of Wellington at the time of the coming into force of this Act shall hold a certificate as a legally qualified medical practitioner under an Act of the Superintendent of the Province of Wellington with the advice and consent of the Provincial Council thereof (hereby repealed) intituled "An Act to establish a Medical Board" or who being in actual practice in medicine or surgery in the Province of Otago at the time of the coming into force of this Act shall be duly registered as a legally qualified medical practitioner under an Ordinance of the Superintendent of the Province of Otago with the advice and consent of the Provincial Council thereof intituled "The Medical Practitioners Act 1864" or any other of the Ordinances of the said last mentioned Superintendent and Provincial Council mentioned in Schedule A. hereto.

15 Board to have power if they think fit to dispense with provisions of Act in certain cases and in favour of certain persons.

It shall be lawful for the Board by special order to dispense with such provisions of this Act or with such part of any regulations made by the authority thereof as to them shall seem fit in favour of persons being legally qualified to practise medicine and surgery in any of the Australian Colonies at the time of this Act coming into force Provided that in any such case the Board may

require the personal attendance before it of the person seeking such dispensation. When any person shall have received such dispensation he shall be entitled to be registered under the Act.

16 Fees to be paid on registration.

Every person except as hereafter provided possessing the qualifications hereinbefore mentioned and desirous of being registered under this Act shall pay to the Board a fee of five pounds and no person except as aforesaid shall be registered until such fee has been paid. Provided always that every person holding a certificate or duly registered as a legally qualified medical practitioner under any of the Ordinances or Acts by this Act repealed or under the Acts of the Imperial Parliament specified in the Schedule shall be entitled to be registered under this Act upon the terms and conditions hereinbefore mentioned without payment of any fee whatsoever.

17 The Registrar.

Where any person entitled to be registered under this Act shall apply to the said Medical Board for that purpose the said Board shall forthwith after the said Board is satisfied that such person is entitled to be registered cause the Registrar to enter in a register in the form set forth in the Schedule C. to this Act or similar thereto the name of such person and his place of residence and the qualification or several qualifications in respect of which such person is so entitled.

18 Registrar to ascertain whether registered person is still living or has changed residence and to alter the Register accordingly.

In order to enable the said Board and the Registrar thereof duly to fulfil the duties imposed upon them respectively it shall be lawful for such Registrar to write or cause to be written a letter to any registered person addressed to him according to his last known address to inquire whether he has changed his residence and if no answer shall be returned to such letter within the period of six months from the sending of the letter it shall be lawful for the Board to erase the name of such person from the register. Provided always that the same may be restored by the Board should they think fit to do so.

19 Notice of death or change of residence to be sent to the Medical Board by Registrar of Deaths.

Every Registrar and Deputy Registrar of Deaths in the Colony on receiving notice of the death of any medical practitioner shall forthwith transmit such notice by post to the Registrar of the Board and on receipt of such notice the Board shall erase the name of such deceased medical practitioner from the register of qualified practitioners under this Act and any medical practitioner on changing his residence shall intimate the same to the Registrar of the Board.

20 Persons unregistered under this Ordinance using medical titles to be subject to fine.

On and after the one hundred and eighty-second day after this Act comes into operation it shall not be lawful for any person within the Colony who shall not be registered under the said Acts specified in the Schedule D. unless he be registered under this Act to pretend to be or take or use the name or title of a physician doctor of medicine licentiate in medicine and surgery master in surgery bachelor in medicine doctor surgeon medical or general practitioner or apothecary or surgeon-apothecary accoucheur or licentiate or practitioner in midwifery or any other medical or surgical name or title And every unregistered person so offending shall upon a summary conviction for any such offence forfeit and pay a sum not exceeding fifty pounds.

21 Unregistered persons not to be entitled to receive fees &c.

After the one hundred and eighty-second day after this Act comes into operation no person who shall not be registered under the said Acts specified in the said Schedule D. shall be entitled to recover any charge in any court of law in the Colony for any medical or surgical advice or attendance or for the performance of any operation or for any medicine which he shall have both prescribed and supplied unless he shall prove on the trial that he is registered under or in accordance with the provisions of this Act.

22 Registered persons may sue for fees &c.

Every person who shall be duly registered under this Act shall be entitled to sue in any court of law in New Zealand to the extent of the jurisdiction of such court for the recovery of his fees or other remuneration for his professional services whether medical or surgical.

23 Words “Legally Qualified Medical Practitioner” in any Act or Ordinance to mean a person registered under this Act.

From and after the coming into force of this Act the words “legally qualified medical practitioner” or “duly qualified medical practitioner” or any words importing a person recognized by law as a medical practitioner or member of the medical profession when used in any Act or Ordinance in force in the Colony of New Zealand shall be construed to mean a person registered under the said Acts specified in the said Schedule D. or registered under this Act.

24 Board to have power to question persons applying to be registered and to require a declaration of truth of statements made by such persons.

It shall be lawful for the said Board to question any person who may present himself as hereinbefore provided or any person applying to be registered under this Act or any witness who may be produced before them and to require a solemn declaration of matter stated by such person or witness to be made by such person or witness before a Justice of the Peace.

25 No unregistered person to hold any public medical appointment.

On and after the one hundred and eighty-second day after this Act comes into operation no person unless registered under the said Acts specified in the said Schedule D. or under and in accordance with this Act shall hold any appointment as a physician surgeon or other medical officer in any hospital infirmary dispensary or lying-in-hospital or in any lunatic asylum gaol penitentiary house of correction house of industry or other public institution for affording medical relief in sickness infirmity or old age or as a medical officer of health or as a surgeon of the Militia or Volunteer Force in New Zealand and on and after the ninety-first day after this Act comes into operation no certificate required by any Act now or hereafter to be in force to be signed by any physician surgeon licentiate in medicine or surgery or other medical practitioner shall be valid unless the person signing the same shall be registered under and in accordance with the provisions of this Act or under the said Acts specified in the said Schedule D. Provided that nothing in this Act contained shall render invalid any such certificate from a duly appointed medical officer of any of Her Majesty's land or sea forces in full pay although such officer may not be registered under this Act.

26 Names of registered persons guilty of certain offences may be erased from Register.

If any person shall have procured himself to be registered under this Act by making or producing or causing to be made or produced any false or fraudulent representation or declaration either verbally or by writing or if any person not entitled to be registered under this Act shall have been registered or if any registered person shall be convicted of any felony or misdemeanour in Great Britain or Ireland or any of the British Dominions or if any person registered under this Act shall after due inquiry be judged by the said Board to have been guilty of discreditable or infamous conduct in any professional respect the Board may in any such case if they think fit and with the consent of the Governor direct the Registrar to erase the name of any such person from the register and forthwith publish in the *New Zealand Gazette* a notification of such erasure.

27 Any persons fraudulently procuring themselves to be registered or forging certificates how punished.

If any person fraudulently or by false representations shall procure himself to be registered as a legally qualified medical practitioner under this Act or shall forge alter or counterfeit any such certificate or shall utter or use any such forged altered or counterfeited certificate knowing the same to have been forged altered or counterfeited or shall falsely advertise or publish himself as having been duly registered as a legally qualified medical practitioner he shall be deemed guilty of a misdemeanour and being convicted thereof shall be

liable to imprisonment with or without hard labour for any term not exceeding three years.

28 Higher qualifications or degrees obtained after registration may be entered on the Register.

Every person registered under this Act who may have obtained any higher degree or any qualification other than the qualification in respect of which he may have been registered shall be entitled to have such higher degree or additional qualification inserted in the register in substitution for or in addition to the qualification previously registered on payment of such fee as the Board may appoint.

29 Annually in month of December true copy of Register to be sent to Colonial Secretary and published in *Gazette* which shall be evidence in Courts of Law.

A true copy of the register aforesaid in accordance with the Schedule C. of this Act certified and declared under the hands of the President and Registrar of the Board to be a true copy shall in the month of December in each year be sent to the Colonial Secretary and shall by him be published in the Government *Gazette* of the Colony and any copy of the register so published shall be evidence in all courts of law and before all Resident Magistrates and Justices of the Peace and others that the persons therein specified are registered according to the provisions of this Act Provided that a certified copy under the hand of the Registrar of the Board of the entry of the name of such person on the register shall be evidence that such person is registered under the provisions of this Act.

30 British qualifications how proveable.

It is hereby declared and enacted that the registry of persons registered under the Acts mentioned in the Schedule D. to this Act may be proved in all Courts and before all Judges and Justices in New Zealand in the same manner and by the like means in or by which it may be proved in Great Britain or Ireland.

31 This Act not to affect chemists or druggists or dentists.

Nothing in this Act contained shall extend or be construed to extend to prejudice or in any way to affect the lawful occupation trade or business of chemists druggists and dentists.

32 British Pharmacopœia.

The British Pharmacopœia shall be used in all public hospitals and dispensaries in New Zealand.

33 Penalties how to be recovered.

Any penalty to which under this Act any person is liable on summary conviction may be recovered in a summary way in the manner provided by “The Justices of the Peace Act 1866” so far as it relates to summary convictions.

34 Fees to be applied for expenses of Act.

All fees received for registration under this Act shall be liable in the first instance to be applied for the expenses of registration and the execution of this Act and the surplus if any of such fees remaining after answering the purposes aforesaid shall be paid to the Colonial Treasurer and form part of the Ordinary Revenue of the Colony.

Schedule A

Acts and Ordinances Repealed

By what Legislature passed.	Session and Number.	Title.
Lieutenant-Governor of New Munster by and with the advice and consent of the Legislative Council thereof	Session I. No. 2	“An Ordinance to define the qualifications and to provide for the remuneration in certain cases of Medical Practitioners.”
Superintendent of the Province of Wellington with the advice and consent of the Provincial Council thereof	Session I. No. 7	“An Act to establish a Medical Board and to declare who shall be deemed a qualified Medical Practitioner within the Province.”
Superintendent of the Province of Otago with the advice and consent of the Provincial Council thereof	Session XIX. No. 183	“Medical Practitioners Ordinance 1864.”
Superintendent of the Province of Otago with the advice and consent of the Provincial Council thereof	Session XX. No. 197	“Medical Practitioners Ordinance 1864 Amendment Ordinance 1865.”
Superintendent of the Province of Otago with the advice and consent of the Provincial Council thereof	Session XXI. No. 209	“Medical Practitioners Ordinance Amendment Ordinance 1865.”

Schedule B

Qualifications entitling Practitioners to Registration

1. Fellow Member Licentiate or Extra Licentiate of the Royal College of Physicians of London England.
2. Fellow Member or Licentiate of the Royal College of Physicians of Edinburgh Scotland.
3. Fellow or Licentiate of the King's and Queen's College of Physicians of Dublin Ireland.
4. Fellow or Member or Licentiate in Midwifery of the Royal College of Surgeons of England.
5. Fellow or Licentiate of the Royal College of Surgeons of Edinburgh Scotland.
6. Fellow or Licentiate of the Faculty of Physicians and Surgeons Glasgow Scotland.
7. Fellow or Licentiate of the Royal College of Surgeons of Dublin Ireland.
8. Licentiate of the Society of Apothecaries London England.
9. Licentiate of the Apothecaries' Hall Dublin Ireland.
10. Doctor or Bachelor or Licentiate of Medicine or Master in Surgery of any University of the United Kingdom of Great Britain and Ireland or Doctor of Medicine by Doctorate granted prior to the 2nd August 1858 by the Archbishop of Canterbury.
11. A Medical Officer duly qualified of Her Majesty's Land or Sea Service.

Schedule C Register

Date of Registration.	Name.	Residence.	Qualifications.
	A. B.	Dunedin (Province of Otago)	Fellow of the Royal College of Physicians London. Member of the Royal College of Surgeons Edinburgh.
	C. D.	Dunstan (Province of Otago)	Licentiate of the Society of Apothecaries London. Member of the Royal College of Surgeons of England.
	E. F.	Auckland (Province of Auckland)	Licentiate of the Faculty of Physicians and Surgeons Glasgow.
	G. H.	Wanganui (Province of Wellington)	Licentiate of the Society of Apothecaries London.

A. B. President of Medical Board.

C. D. Member of Medical Board.

E. F. ditto ditto.

Schedule D
Acts under which Registration is recognized

Date of Act.	Title of Act.
21 and 22 Victoria cap. 90.	"An Act to Regulate the Qualifications of Practitioners in Medicine and Surgery."
22 Victoria cap. 21.	"An Act to amend the Medical Act."