

Physiotherapy Act 1949

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An Act to Consolidate and Amend the Masseurs Title. Registration Act, 1920, and its Amendments.

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

1 Short Title and commencement.

This Act may be cited as the Physiotherapy Act, 1949, and shall come into force on the first day of January, nineteen hundred and fifty.

2 Interpretation.

(1) In this Act, unless the context otherwise requires,—

“Board” means the Physiotherapy Board constituted under this Act:

“Physiotherapist”, or “registered physiotherapist”, means a person registered as a physiotherapist under this Act:

“Physiotherapy” means the use by external application to the human body of massage, being the manipulation of the soft tissues of the body, passive movements, remedial exercises, electricity, heat, light, water, or other physical agents for the purpose of curing or alleviating any abnormal condition of the body, or the use for that purpose of any other method of treatment for the time

being declared by the Governor-General in Council to be an approved method of performing physiotherapy; but does not include—

- (a) The internal use of any drug or medicine:
- (b) The application of any medical or surgical appliance except so far as the application of that appliance is necessary in the use of massage, passive movements, remedial exercises, or any such physical agent or other approved method as aforesaid:

“Registered medical practitioner” means a medical practitioner registered under the Medical Practitioners Act, 1914:

“Registrar” means the Registrar of Physiotherapists under this Act.

Ibid..p. 669

- (2) The Governor-General may from time to time, on the recommendation of the Minister of Health acting on the advice of the Physiotherapy Board, by Order in Council declare any method of treatment to be an approved method of performing physiotherapy for the purposes of this Act.

Compare: Masseurs Registration Act, 1920(No. 16), s. 2 1924, No. 14, ss. 2, 6

Part I Administration

3 Registrar of Physiotherapists.

The person who for the time being holds office as the Director-General of Health under the Health Act, 1920, shall, without further appointment, be the Registrar of Physiotherapists under this Act.

4 Physiotherapy Board constituted.

- (1) There is hereby established for the purposes of this Act a Board, to be known as the Physiotherapy Board. The Board is hereby declared to be the same Board as the Masseurs Registration Board constituted under the Masseurs Registration Act, 1920.
- (2) The Board shall consist of—
 - (a) The Director-General of Health under the Health Act, 1920:
 - (b) The person who for the time being holds office in the Department of Health as the Inspector of Physiotherapy:
 - (c) The person who for the time being holds office as the Principal of the New Zealand School of Physiotherapy at Dunedin:
 - (d) Three registered physiotherapists engaged in the practice of physiotherapy in New Zealand (of whom at least one shall be engaged in private practice and at least one shall be employed in a public hospital), to be nominated by the New Zealand Trained Masseurs' Association (Incorporated) or by such other association or society as may be approved by

the Minister for the purpose, and to be appointed on the recommendation of the Minister of Health:

- (e) A registered medical practitioner, to be appointed on the recommendation of the Minister of Health.
- (3) The members of the Board, other than those who are members by virtue of their office, shall be appointed by the Governor-General for a period of three years, save that any such member may from time to time be reappointed, or may be at any time removed from office by the Governor-General for disability, insolvency, neglect of duty, or misconduct, or may at any time resign his office by writing addressed to the Registrar.
- (4) If any appointed member of the Board dies, resigns, or is removed from office, the vacancy so created shall be filled in the manner in which the appointment to the vacant office was originally made. Every person so appointed shall be appointed for the residue of the term for which his predecessor was appointed.
- (5) Unless he sooner vacates his office as provided in the last preceding subsection, every appointed member of the Board shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.
- (6) The powers of the Board shall not be affected by any vacancy in the membership thereof.

Compare: 1920, No. 16, s. 3(1), (2), (3)

5 Chairman of Board.

- (1) The Director-General of Health shall be the Chairman of the Board.
- (2) The Chairman shall preside at all meetings of the Board at which he is present. If at any meeting of the Board the Director-General of Health is not present, the officer of the Department of Health authorized to attend the meeting in his stead pursuant to the next succeeding section shall act as the Chairman in respect of that meeting, and shall have and may exercise all the powers and functions of the Chairman for the purposes of that meeting.

Compare: 1920, No. 16, s. 4(1)

6 Meetings of Board.

- (1) Meetings of the Board shall be held at such times and places as the Chairman or the Board may from time to time appoint.
- (2) At any meeting of the Board four members shall form a quorum.
- (3) Every question before the Board shall be determined by a majority of the votes of the members present at the meeting of the Board.
- (4) The Chairman shall have a deliberative vote, and, in the case of an equality of votes, shall also have a casting vote.

- (5) In the absence from any meeting of the Board of the Director-General of Health, he may appoint a registered medical practitioner, being an officer of the Department of Health, to attend the meeting in his stead. While any person is attending any meeting of the Board pursuant to this subsection he shall be deemed for all purposes to be a member of the Board. The fact that any person so attends shall be sufficient evidence of his authority so to do.
- (6) Save as expressly provided in this Act, or in any regulations thereunder, the Board may regulate its procedure in such manner as it thinks fit.

Compare: *ibid.*, s. 4(2), (3) 1924, No. 14, s. 3(2) 1920, No. 16, s. 3(5)

7 Allowances and travelling expenses of members.

- (1) There shall be paid out of moneys appropriated by Parliament for the purpose to the members of the Board who are not officers employed in the service of the Crown such remuneration by way of fees or allowances as may from time to time be prescribed by regulations under this Act.
- (2) There shall be paid out of moneys appropriated by Parliament for the purpose to the members of the Board such travelling expenses and allowances as may from time to time be prescribed by regulations under this Act.

Compare: 1920, No. 16, s. 3(4)

8 Functions of Board.

The functions of the Board shall be—

- (a) To determine courses of training and instruction to be undergone by candidates for examination under this Act:
- (b) To approve hospitals and other institutions or places at which the whole or any portion of any course of training for the purposes of this Act may be received:
- (c) To conduct examinations under this Act; to appoint examiners and make all necessary arrangements for the purposes of the examinations; and to issue certificates of having passed examinations to persons entitled thereto:
- (d) To receive applications for registration under this Act; and to authorize registration in proper cases:
- (e) To have regard to the conduct of persons registered under this Act:
- (f) Generally, within the scope of its authority, to do whatever may in its opinion be necessary for the effective administration of this Act.

Part II Registration

9 Register of Physiotherapists.

- (1) The Registrar shall keep in his office a register, to be called the Register of Physiotherapists, in which shall be entered the name of every person registered under this Act, together with such other particulars as may from time to time be prescribed.
- (2) No entry of the name of any person shall be made in the register except pursuant to a direction of the Board.

Compare: 1920, No. 16, s. 5

10 Qualifications of applicants for registration.

Except as provided in this Part of this Act, every person shall be entitled to be registered as a physiotherapist under this Act who satisfies the Board—

- (a) In the case of an applicant qualified by examination in New Zealand under this Act, that he has undergone the prescribed course of training and instruction in physiotherapy in an approved training school, or approved training schools, for physiotherapists and that he has passed the examination for physiotherapists prescribed pursuant to this Act:
- (b) In the case of any other applicant, that he is the holder of a certificate which satisfies the Board that he has undergone a course of training and passed an examination elsewhere than in New Zealand equivalent to the training and examination required in the case of physiotherapists trained in New Zealand and qualified by examination under this Act.

Compare: *ibid.*, s. 6

11 Limitations as to age and character of applicants.

- (1) No person who is less than twenty-one years of age shall be registered under this Act.
- (2) Notwithstanding anything contained in sub section one of this section, any such person as aforesaid shall be entitled to be registered if at the time of his application for registration he is employed as an assistant physiotherapist in any hospital or other institution controlled or maintained by any Hospital Board under the Hospitals Act, 1926, or by any Department of State, and is otherwise qualified to be registered under this Act:

Provided that if at any time before attaining the age of twenty-one years any person registered under this subsection ceases to be so employed as aforesaid he shall thereupon be deemed not to be registered under this Act.

- (3) A person shall not be registered under this Act unless that person is, in the opinion of the Board, of good character and reputation.

Compare: 1924. No. 14, s. 4 1920, No. 16, s. 6(1)

12 Applications for registration.

Except as may be provided by regulations under this Act, every application for registration under this Act shall be made in writing addressed to the Board, and shall be accompanied by such fee as may be prescribed.

13 Certificates of registration and badges.

- (1) Every person registered under this Act shall, on payment of the prescribed fee, be entitled to receive a certificate of registration under the hand of the Registrar, and, in the case of a person qualified by examination in New Zealand under this Act, shall also be entitled to obtain and wear a badge of a kind approved by the Board bearing his name and the date of registration.
- (2) Every person commits an offence and is liable to a fine not exceeding twenty pounds who, not being a person for the time being registered under this Act, wears any such badge as aforesaid or any colourable imitation thereof.

Compare: 1920, No. 16, s. 7

14 Additional diplomas, &c., to be entered in register.

- (1) Any physiotherapist who obtains any approved certificate, diploma, or licence other than that by virtue of which he is registered may apply to the Board to amend the register so far as it relates to the qualifications of that person; and on any such application the Board, if satisfied that the applicant is entitled to the certificate, diploma, or licence in respect of which the application is made and that it is one of a kind approved by the Board for the purposes of this section, shall direct the Registrar to amend the register accordingly, and the Registrar shall thereupon, on payment of such fee as may be prescribed, insert in the register particulars of the certificate, diploma, or licence.
- (2) It may be a condition of the approval by the Board for the purposes of this section of any certificate, diploma, or licence that the course of training or examination therefor shall be such as is approved or prescribed by the Board.
- (3) Any approval for the purposes of this section may be at any time revoked by the Board.

15 Registered physio therapists to notify change of address.

- (1) Every physiotherapist who at any time changes his address as appearing on the register shall, within three months thereafter, send to the Registrar a notice of his new address, and the Registrar shall thereupon correct the entry in the register relating to that person accordingly.
- (2) Every person who, without reasonable cause, fails to comply with the provisions of this section commits an offence and is liable to a fine not exceeding one pound.

Compare: 1941, No. 26, s. 49

16 Name may be removed from register if registered person cannot be found, &c.

- (1) The Registrar may at any time, and shall if the Board so directs, send to any registered physiotherapist, by registered letter addressed to him at his address as appearing in the register, an inquiry as to whether or not he desires to have his name retained on the register or has ceased to practise.
- (2) If no reply is received to that letter within three months from the posting thereof, or if the letter is not delivered and is returned to the Registrar, the Registrar shall, if the Board so directs, remove from the register the name of the person to whom the letter was so sent.
- (3) If any registered physiotherapist applies to the Registrar to have his name removed from the register, the Registrar shall, if the Board so directs, remove the name from the register accordingly.
- (4) Any person whose name has been removed from the register in pursuance of this section may apply to the Registrar to have his name restored to the register and his name shall, on payment of such fee as may be prescribed, be restored to the register accordingly.

Compare: *ibid.*, s. 50

17 Penalty for wrongfully procuring registration.

Every person who wilfully makes or causes to be made any false entry in or falsification of the register, or procures or attempts to procure himself or any other person 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 orally or in writing, commits an offence and is liable to imprisonment for not more than three months or to a fine not exceeding fifty pounds.

Compare: 1920, No. 16, s. 8

18 Correction of register.

If any person has been registered under this Act by reason of any false or fraudulent representation or declaration, made either orally or in writing, or if any person not entitled to be registered under this Act has been so registered, the Board shall cause the name of that person to be removed from the register.

Compare: 1920, No. 16, s. 9

Part III Training

19 Approval of training schools

- (1) The Board may approve as a training school for physiotherapists any hospital or other institution controlled or maintained by any Hospital Board under the Hospitals Act, 1926, or by any Department of State.

- (2) The approval of any training school under this section may, in the discretion of the Board, be so limited that only a defined part of the prescribed course of training and instruction may be taken at that training school.
- (3) The approval of any training school by the Board may be at any time revoked by the Board.

20 Credit for previous training.

- (1) In any case where a person seeking registration as a physiotherapist has undergone elsewhere than in New Zealand any period of training as a physiotherapist but is not the holder of a certificate of the kind referred to in paragraph (b) of section ten of this Act, the Board may from time to time, in its discretion, direct that it shall not be necessary for that person to undergo and receive such portion or portions as the Board may determine of the prescribed course of training and instruction in physiotherapy.
- (2) In giving any direction under this section the Board may make such other modifications and impose such conditions as it thinks fit in respect of the training and instruction to be undergone by the person in respect of whom the direction is given.
- (3) Every person in respect of whom any direction has been given under this section shall, when he has completed the course of training and instruction as modified by any such direction as aforesaid and complied with any conditions imposed by the Board under this section, be deemed for the purpose of section ten of this Act to have undergone the prescribed course of training and instruction, but nothing in this section shall be deemed to render it unnecessary for any person to pass the prescribed examination.

Part IV Miscellaneous Provisions

21 Annual practising certificates for registered physiotherapists.

- (1) In this section the term “year” means the period of twelve months beginning on the first day of April in any year and ending on the thirty-first day of March next following.
- (2) No person registered under this Act shall in any year be entitled to practise his calling as a physiotherapist unless he is the holder of an annual practising certificate issued in respect of that year.
- (3) Every person who practises his calling in breach of the last preceding subsection commits an offence and is liable to a fine not exceeding five pounds.
- (4) The Board, on application made to it for the purpose by any registered physiotherapist, and on payment of the prescribed fee, shall issue to him an annual

practising certificate, which shall be in force during the year in respect of which it is issued:

Provided that if at any time during the currency of any such certificate the holder thereof ceases to be registered under this Act the certificate shall be deemed to be cancelled.

- (5) Every person who is entitled to receive an annual practising certificate under this section shall be deemed to have obtained such certificate when he has duly applied to the Board for it.

Compare: Finance Act, 1932-33 (No. 2), s. 13

22 Registered physiotherapists resuming practice after discharge from mental hospital.

- (1) If any registered physiotherapist is at the commencement of this Act or thereafter becomes an inmate of an institution under the Mental Defectives Act, 1911, whether as a patient or as a voluntary boarder, he shall not thereafter resume the practice of his calling as a physiotherapist without a licence in that behalf granted by the Board.
- (2) Every person to whom this section relates who practises his calling as a physiotherapist without having obtained a licence from the Board commits an offence and is liable to a fine not exceeding ten pounds and, if the offence is a continuing one, to a further fine not exceeding five pounds for every day during which the offence continues.
- (3) Every person to whom this section relates shall, until the issue of a licence by the Board, be deemed not to be registered.

23 Hospital Boards to appoint registered physiotherapists.

Except with the approval of the Minister, given on a recommendation made by the Physiotherapy Board on special grounds to be specified in the recommendation, a Hospital Board shall not appoint any person to the staff of any institution under the control of the Hospital Board to carry out the duties of a physiotherapist unless the person appointed is registered under this Act:

Provided that nothing in this section shall be construed to restrict the employment in any such institution of persons undergoing a prescribed course of training.

Compare: 1920, No. 16, s. 14

24 Disciplinary powers of Board.

- (1) If the Board is satisfied, in respect of any person registered under this Act, that that person, whether before or after he became registered,—
 - (a) Has been convicted of any offence punishable by imprisonment the commission of which, in the opinion of the Board, has dishonoured him in the public estimation; or

- (b) Has been guilty of gross negligence or mal practice in respect of his calling; or
- (c) Has been guilty of grave impropriety or misconduct, whether in respect of his calling or not,—

it may, in its discretion, either cause that person's name to be removed from the register, or suspend his registration under this Act for a period not exceeding twelve months, or impose a penalty of such amount as it thinks fit, not exceeding ten pounds:

Provided that the Board may not exercise any authority conferred by this subsection in respect of any matter of which it had notice at the time of the registration.

- (2) The Board may, if it thinks fit, determine that the decision of the Board under this section in relation to any person shall not come into effect for such period as the Board shall fix. If within that period notice of appeal is given under the next succeeding section, the decision of the Board shall not take effect unless and until it is confirmed by the Board of Appeal or the appeal is for any reason dismissed by the Board of Appeal:

Provided that in any such case the decision shall take effect from the date of the decision of the Board of Appeal or from such other date as the Board of Appeal may fix.

- (3) Before exercising its powers under this section the Board, or a committee of the Board, shall cause to be served on the person concerned a notice stating that it has reason to believe that a ground exists entitling the Board to exercise its powers under this section, specifying the ground with sufficient particularity to enable him to answer it, and requiring him to appear before the Board to show cause why the Board should not remove his name from the register or otherwise exercise its powers under this section.
- (4) The notice under the last preceding subsection may require the person to whom the notice is addressed to notify the Board in writing not later than some specified date before the date proposed for the hearing of the matter as to whether or not he intends to appear before the Board at the hearing to show cause. If he fails to notify his intention as required by the notice or notifies the Board that he does not intend to appear, he shall not be entitled to appear and be heard except by leave of the Board granted on such conditions as to the payment of expenses or otherwise as the Board thinks fit.
- (5) With the prior written consent of a person on whom a notice has been served under this section, and who has notified the Board that he intends to show cause why the Board should not exercise its powers under this section, a committee of the Board may hear and determine the matter:

Provided that the determination of the committee shall be of no effect until it has been confirmed by the Board, which shall have power to determine that no penalty be imposed or to reduce any penalty determined by the committee by

suspending registration for a period or imposing a pecuniary penalty instead of removing the name of the person from the register, or by reducing any period of suspension of registration or any pecuniary penalty, or by substituting a pecuniary penalty for a period of suspension.

- (6) Any hearing of any matter under this section may be adjourned by the Board or the committee of the Board, as the case may be, from time to time and from place to place.
- (7) Every monetary penalty imposed by the Board under this section shall be recoverable as a debt due to the Crown and shall be paid into the Public Account to the credit of the Consolidated Fund. If any such penalty is not paid within the time specified by the Board in that behalf, or within such extended time as the Board may allow, the Board may suspend the registration of the person liable for the payment of the penalty until the penalty is paid.
- (8) While the registration of any person is suspended in accordance with this section he shall be deemed not to be registered.

Compare: *ibid.*, s. 9

25 Appeals from decisions of Board.

- (1) Every person who is dissatisfied with any decision of the Board relating to an application by him for registration or for a licence under section twenty-two of this Act, or to the removal of his name from the register, or to the suspension of his registration, or to the imposition on him of any penalty, may, within three months after notice of the decision has been communicated to him by the Registrar, or within such further period as the Board either before or after the expiration of the said three months may allow, give notice of appeal in the prescribed manner to the Registrar.
- (2) Upon receipt of the notice of appeal the Registrar shall take all steps necessary for the constitution of a Board of Appeal, consisting of a Magistrate and two assessors. The assessors shall be appointed in accordance with regulations under this Act to represent the Board and the appellant respectively.
- (3) The Board of Appeal so constituted shall as soon as practicable hear the appeal, and may confirm, reverse, or modify the decision of the Board, and may give any decision which the Board could have given under subsection one of the last preceding section.
- (4) On any appeal under this section the decision of not less than two members of the Board of Appeal (including the Magistrate) shall be the decision of that Board, and that decision shall be final and conclusive.
- (5) On any appeal under this section the Board of Appeal may make an order for the payment by the Board, or by the appellant, of the costs incurred in respect of the appeal by the other party to the appeal, and in any such case the costs so awarded may be recovered in any Court of competent jurisdiction as a debt

due by the party against whom they have been awarded to the party in whose favour they have been awarded.

Compare: 1920, No. 16, s. 10

26 Offences by unregistered persons.

Every person commits an offence and is liable to a fine not exceeding twenty pounds who, not being registered under this Act,—

- (a) Describes himself or otherwise holds himself out as a physiotherapist, physiotherapy expert, masseur, or massage expert:
- (b) Uses or causes or permits to be used in connection with his business, profession, or calling any written words, initials, or abbreviations of words intended or likely to cause any person to believe that he is registered under this Act or that he is engaged in the practice of physiotherapy or massage within the meaning of this Act, or that he is qualified to practice physiotherapy or massage:

Compare: 1920, No. 16, s. 12

27 Offence to advertise as teacher of physiotherapy unless authorized by Board.

Every person commits an offence and is liable to a fine not exceeding fifty pounds who describes himself or otherwise holds himself out as a teacher of physiotherapy or massage, or in any manner intended or likely to cause any other person to believe that he is qualified to give instruction to or to train persons in physiotherapy or massage, unless he is previously authorized in writing by the Board to give instruction or train persons as aforesaid.

28 Offences punishable summarily.

All proceedings in respect of offences against this Act or against any regulations made under this Act shall be taken in a summary way.

29 Certificate of Registrar to be evidence of registration, &c.

A certificate under the hand of the Registrar to the effect that any person is or is not registered or the holder of an annual practising certificate under this Act, or was or was not so registered or the holder of such a certificate at any particular time or during any period specified in the certificate, or as to any entry in the register kept under this Act, or as to any act or proceeding of the Board or any committee of the Board, shall, until the contrary is proved, be sufficient evidence of the matters therein specified.

30 Application of fees, &c.

All fees and other moneys received under this Act shall be paid into the Public Account to the credit of the Consolidated Fund, and all expenses incurred in

the administration of this Act shall be paid out of moneys to be from time to time appropriated by Parliament for the purpose.

Compare: 1920, No. 16, s. 13

31 Regulations.

- (1) The Governor-General may from time to time, by Order in Council, make all such regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.
- (2) Without limiting the general power hereinbefore conferred, it is hereby declared that regulations may be made under this section for all or any of the following purposes:—
 - (a) Prescribing the form of and the method of keeping the register under this Act:
 - (b) Prescribing courses of training and instruction to be undergone by persons desirous of becoming qualified for registration under this Act:
 - (c) Prescribing the subject-matter of examinations to be conducted by the Board:
 - (d) Prescribing the forms of applications, certificates, and other documents required under this Act, and the manner in which notices may be served, and the times when they shall be deemed to have been served:
 - (e) Prescribing the fees payable in respect of examination and of registration under this Act, in respect of any alteration of or addition to the register kept under this Act, and in respect of any other matters under this Act:
 - (f) Prescribing the conditions under which any hospital or other institution may be recognized as an approved training school for the purposes of this Act:
 - (g) Prescribing the number of persons that may be undergoing a prescribed course of training and instruction at any one time, or accepted for training and instruction in any one year, in any approved training school:
 - (h) Providing for the appointment of assessors and regulating the conduct of appeals under section twenty-five of this Act:
 - (i) Prescribing fines, not exceeding ten pounds in any one case, for the breach of any regulations made under this Act.

Compare: *Ibid.*, s. 15

32 Repeals and savings.

- (1) The Masseurs Registration Act, 1920, the Masseurs Registration Amendment Act, 1924, sections thirteen and fourteen of the Finance Act, 1932–33 (No. 2), the Masseurs Registration Amendment Act, 1935, and sections forty-eight to fifty of the Statutes Amendment Act, 1941, are hereby repealed.

1932-33, No. 45 1935, No. 8 1941, No 26

- (2) All offices, institutions, appointments, licences, regulations, orders, registers, registrations, records, certificates, notices, instruments, and generally all acts of authority that originated under any of the said enactments and are subsisting or in force on the commencement of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.
- (3) All matters and proceedings commenced under the said enactments, and pending or in progress on the commencement of this Act, may be continued, completed, and enforced under this Act.