

3 GEO. VI. No. 10, 1939. *Medical Act.*

5. Section twenty-six of the Principal Act is ^{Amendment of s. 26.} amended as follows, namely :—

(a) The following new paragraph (iiiA.) is inserted after paragraph (iii.) of subsection one thereof, namely :—

“(iiiA.) The powers, duties, and authorities of inspectors.”

(b) The following new paragraph (xiiiB.) is inserted after paragraph (xiiiA.) of subsection one thereof, namely :—

“(xiiiB.) Providing for and regulating the conduct of persons suspended from registration under this Act during the period of suspension ; prescribing what practices by such persons shall be prohibited, and providing for and regulating applications for removal of such suspension.”

An Act to Consolidate and Amend the Law relating to Medical Practitioners and the Control of the Practice of Medicine, and for other purposes.

3 GEO. VI.
No. 10.
THE
MEDICAL
ACT OF
1939.

[ASSENTED TO 9TH NOVEMBER, 1939.]

BE it enacted by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows :—

PART I.—PRELIMINARY.

PART I.—
PRELIMINARY.

1. This Act may be cited as “*The Medical Act of 1939.*” Short title.

2. This Act is divided into Parts as follows :— Parts of Act.

PART I.—PRELIMINARY (Sections 1-4)—

Section 1—*Short Title,*

Section 2—*Parts of Act,*

Section 3—*Repeals and Savings,*

Section 4—*Meanings of Terms ;*

PART II.—CENTRAL AUTHORITY (Sections 5–7)—

Section 5—*Regulations, Proclamations, &c.*,Section 6—*Governor in Council may Refer Matters to Tribunal,*Section 7—*Rules Respecting Tribunal ;*PART III.—MEDICAL BOARD OF QUEENSLAND
(Sections 8–16)—Section 8—*Constitution,*Section 9—*Disqualifications,*Section 10—*Constituted Body Corporate,*Sections 11–13—*Proceedings and Business,*Sections 14–15—*Funds,*Section 16—*Power to Make By-laws ;*

PART IV.—REGISTRATION (Sections 17–32)—

Section 17—*Registers,*Section 18—*Existing Registrations,*Section 19—*Qualifications for Registration,*Section 20—*Registration for Limited Period,*Sections 21–23—*Registration of Specialists,*Section 24—*Refusal to Register,*Section 25—*Annual Fees,*Section 26—*Additional Qualifications,*Section 27—*Certain Entries may be Erased,*Section 28—*Removal of Names from Registers,*Section 29—*Return of Certificate,*Section 30—*Restoration of Name,*Section 31—*Rights and Privileges of Medical Practitioners,*Section 32—*Penalty for Forging Registration ;*PART V.—THE MEDICAL ASSESSMENT TRIBUNAL
(Sections 33–46)—Section 33—*Constitution,*Section 34—*Jurisdiction,*Section 35—*Misconduct in a Professional Respect,*Sections 36–37—*Institution of Proceedings and Charges before Tribunal,*Section 38—*Matters having a Medical Element,*Sections 39–40—*Proceedings,*Section 41—*Disciplinary Punishment,*Sections 42–46—*Appeal from Tribunal ;*

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PART VI.—PROHIBITED PRACTICES (Section 47)—

Section 47—*Prohibited Practices* ;

PART VII.—MEDICAL FEES (Sections 48–50)—

Section 48—*Review of Medical Accounts*,

Section 49—*Contracting-out Prohibited*,

Section 50—*Certificate of Review of Account as Evidence* ;

PART VIII.—INQUESTS AND BURIALS (Sections 51–53)—

Section 51—*When Medical Practitioner to Give Evidence before Coroner or Perform Post-mortem*,

Section 52—*Medical Certificate Required before Burial*,

Section 53—“ *Medical Practitioner* ” to Include *Specialist* ;

PART IX.—ANATOMY (Sections 54–71) ;

PART X.—LEGAL PROCEEDINGS (Sections 72–78)—

Section 72—*Board may Sue*,

Section 73—*Evidence*,

Section 74—*Registers as Evidence*,

Section 75—*General Penalty*,

Section 76—*Recovery of Penalties*,

Section 77—*Penalties to be Paid to Board's Funds*,

Section 78—*Unqualified Person Prohibited from Recovering Medical Fees*,

Section 79—*Savings*.

3. Subject as hereinafter provided, the Acts specified in the Schedule to this Act are repealed to the extent in that Schedule indicated:

Repeal of
“ *The Medical Acts, 1925 to 1935.* ”

Provided that, but without prejudice to * “ *The Acts Shortening Acts* ”—

- (i.) The Medical Board constituted under the repealed Acts shall be dissolved as and from the date of the first appointment of the members of the Board constituted under

Board constituted under repealed Acts dissolved.

* 31 Vic. No. 6 and amending Acts, *supra*, pages 15 *et seq.*

this Act, and the members thereof shall go out of office accordingly. Such Board is hereinafter in this section referred to as the "dissolved Board";

Transfer of
property of
dissolved
Board.

(ii.) All the property whether real or personal and all other assets of whatever description, and all rights, contracts, obligations, liabilities, and engagements of the dissolved Board shall without any transfer, assignment, conveyance, or notice other than this Act be divested from such dissolved Board, and shall be and be deemed to be vested in and shall attach to and may be enforced by and against the Board constituted under this Act;

Proclama-
tions, &c.,
preserved.

(iii.) Every Proclamation, Order in Council, by-law, regulation, rule, notification, registration, permit, certificate, prohibition, order, authority, license, or approval made, issued, or given under the repealed Acts, or any of them, and in force at the coming into operation of this Act shall, subject as hereinafter provided, continue in force until the same is repealed, amended, revoked, cancelled, erased, or suspended under this Act:

Provided that every such Proclamation, Order in Council, by-law, regulation, rule, notification, registration, permit, certificate, prohibition, order, authority, license, or approval shall be read and construed subject to this Act;

Continuance
in office of
officers
appointed
under the
repealed
Acts.

(iv.) All officers of the dissolved Board and any inspector appointed under the repealed Acts, or any of them, shall, without any further or other appointment whatsoever, be and be deemed to have been appointed as officers of the Board constituted under this Act and an inspector for the purpose for which he was appointed and shall, subject to this Act, continue to hold their respective offices accordingly;

Proceedings,
&c.

(v.) All proceedings and things commenced or had or done by the Governor in Council, or by the Minister, or by the dissolved Board, or by the registrar appointed for the purposes

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of the repealed Acts or any of them, or by any other body or person under or in pursuance of the said repealed Acts or any of them, may be continued and completed and shall be and continue to be of the same force and effect to all intents and purposes as if no such repeal had taken place ;

- (vi.) All moneys, including fees which, having accrued due under the repealed Acts or any of them, are at the commencement of this Act due or payable to or recoverable by the dissolved Board or any other body or person shall be and continue to be so due, payable, and recoverable, and may be paid to and received and recovered by the corresponding body or person established or appointed under this Act : and, moreover, any moneys standing to the credit of the funds of the dissolved Board shall be transferred to the credit of the funds of the Board constituted under this Act ;

- (vii.) All penalties and forfeitures (including disciplinary punishments) imposed under the said repealed Acts, or any of them, and incurred at the commencement of this Act shall be enforceable and may be enforced as if this Act had not come into operation :

Provided that any such disciplinary punishment may be enforced under this Act ;

- (viii.) All actions and proceedings of whatever nature commenced or pending at the commencement of this Act under the repealed Acts, or any of them, may be carried on and prosecuted as if this Act had not come into operation, and no such action or proceeding shall abate or be discontinued or prejudicially affected by anything in this Act contained ;

- (ix.) When in any Act reference is made to any provision of the repealed Acts, or any of them, or of any Act thereby repealed, it shall be taken, unless the context otherwise indicates or requires, that such reference is to the corresponding provision of this Act, and such enactment shall be read and construed accordingly ;

- Evidence. (x.) Any book, document, certificate, or other writing made evidence under the repealed Acts, or any of them, shall continue evidence to the same extent as if this Act had not come into operation ;
- Gazette list of medical practitioners.* (xi.) The list of medical practitioners registered in Queensland last published in the *Gazette* under the repealed Acts shall subject to this Act continue to be the list of medical practitioners registered in Queensland until the date of the publication under this Act of the first annual list of medical practitioners, Queensland ;
- Transfer of property, &c., of dissolved Board. (xii.) All instruments, documents, records, correspondence, and all books and writings the property of the dissolved Board shall, without notice or authority other than this Act, be and be deemed to be the property of the Board constituted under this Act, and shall be delivered up accordingly by any person having the custody, possession, or control of the same or any of them.
- Meanings of terms. 4. In this Act, unless the context or subject-matter otherwise indicates or requires, the following terms have the meanings respectively assigned to them, that is to say :—
- Anatomy. “Anatomy”—Anatomy of the human body only ;
- Board. “Board”—The Medical Board of Queensland constituted under this Act ;
- Body. “Body”—Dead human body ;
- By-laws. “By-laws”—By-laws made under the authority of this Act ;
- Coroner. “Coroner”—A coroner within the meaning of or appointed under **“The Coroners Act of 1930”* ;
- Director-General. “Director-General”—The Director-General of Health and Medical Services for the State of Queensland within the meaning of †*“The Health Act of 1937”* ;
- Medical practitioner. “Medical practitioner”—A person registered as a medical practitioner, and whose name remains upon the Register of Medical Practitioners, Queensland ;

* 21 Geo. No. 17, *supra*, page 12937.† 1 Geo. VI. No. 31, *supra*, page 16597.

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- “Mentally sick”—The term includes a person who is insane; Mentally sick.
- “Minister”—The Secretary for Health and Home Affairs or other Minister of the Crown for the time being charged with the administration of this Act; Minister.
- “Prescribed”—Prescribed by this Act; Prescribed.
- “President”—The president of the Board: the term, whenever necessary includes the deputy president; President.
- “Register of Medical Practitioners”—The Register of Medical Practitioners, Queensland, hereinafter mentioned; Register of Medical Practitioners.
- “Register of Specialists”—The Register of Specialists, Queensland, hereinafter mentioned; Register of Specialists.
- “Registrar”—The registrar appointed as prescribed; Registrar.
- “Specialist”—A medical practitioner registered under this Act as a specialist with respect to a specialty, and whose name remains upon the Register of Specialists, Queensland, with respect to such specialty; Specialist.
- “Specialty”—A branch of medicine prescribed under this Act to be a specialty; Specialty.
- “This Act”—This Act and all Proclamations, Orders in Council, rules, by-laws, regulations, and notifications made or purporting to be made thereunder; This Act.
- “Tribunal”—The Medical Assessment Tribunal constituted under this Act. Tribunal.

Any reference in this Act to a register shall, unless the context otherwise indicates or requires, in the case of a specialist be read and construed as referring to both the Register of Medical Practitioners, Queensland, and the Register of Specialists, Queensland.

The words “legally qualified medical practitioner” or any words importing a person recognised by law as a medical practitioner or a member of the medical profession when used in any Act, whether passed before or after the coming into operation of this Act, shall be construed in and for the purposes of such Act to mean a medical practitioner (including a specialist) within the meaning of this Act.

PART II.—CENTRAL AUTHORITY.

Regulations, Proclamations, &c.

Regulations.

5. (1.) The Governor in Council may from time to time make regulations providing for all or any purposes, whether general or in particular cases, that may be necessary or convenient for the administration of this Act or that may be necessary or expedient to carry out the objects and purposes of this Act.

Without limiting the generality of the foregoing provisions such regulations may be made with respect to all matters required or permitted by this Act to be prescribed in so far as same are not required or permitted to be prescribed in some other manner.

Proclama-
tions, &c., to
have force
of law

(2.) Every Proclamation, Order in Council, rule, by-law, regulation, and notification by the Governor in Council made or purporting to have been made under this Act shall upon being published in the *Gazette* have the same force and effect as if it were enacted in this Act and shall be judicially noticed, and shall not be questioned in any proceedings whatsoever.

The publication in the *Gazette* of any such Proclamation, Order in Council, rule, by-law, regulation, or notification shall be conclusive evidence of the matters contained therein and of the power and authority to make such Proclamation, Order in Council, rule, by-law, regulation, or notification, as the case may be.

Any Proclamation, Order in Council, rule, by-law, regulation, or notification by the Governor in Council made under this Act may be amended or rescinded by any later Proclamation, Order in Council, rule, by-law, regulation, or notification, as the case may be.

Every such Proclamation, Order in Council, rule, by-law, or regulation shall be laid before Parliament forthwith if then sitting; or, if not then sitting, within fourteen days after the commencement of the next ensuing session.

If the Legislative Assembly, within the next fourteen sitting days after any such Proclamation, Order in Council, rule, by-law, or regulation has been so laid before such House, resolves that it ought to be annulled, the same shall after the date of such resolution

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be of no effect, but without prejudice to the validity of anything done in the meantime under the Proclamation, Order in Council, rule, by-law, or regulation concerned, or to the making of any new Proclamation, Order in Council, rule, by-law, or regulation, as the case may be.

For the purposes of this section the term "sitting days" shall mean days on which the House actually sits for the despatch of business.

Governor in Council may Refer Matters to Tribunal.

6. The Governor in Council may refer to the Tribunal for investigation any matter respecting the administration of this Act or affecting or likely to affect the medical profession or the practice of medicine or any other matter considered to require investigation by the Tribunal in the public interest, and the Tribunal shall investigate any such matter so referred to it, and shall report the result of its investigation to the Governor in Council.

Tribunal to investigate matters referred to it by the Governor in Council.

Without prejudice to the powers and authorities conferred upon the judge constituting the Tribunal the Tribunal shall, for the purposes of this section have and may exercise all the powers, authorities, functions, jurisdiction, and protection of a commission under *"*The Official Inquiries Evidence Acts, 1910 to 1929.*"

The costs, charges, and expenses of any investigation pursuant to this section shall be paid out of the Consolidated Revenue Fund which is hereby appropriated accordingly.

Rules Respecting Tribunal.

7. The Governor in Council may, upon the recommendation of the judge constituting the Tribunal, from time to time make such rules as shall be necessary or convenient to carry out the objects and purposes of this Act with respect to the Tribunal, including the fees (if any) payable to members other than the judge for attendance at sittings thereof and allowances to members for expenses.

Power to make rules with respect to the Tribunal.

* 1 Geo. V. No. 26 and amending Act, *supra*, pages 748 *et seq.*

PART III.—MEDICAL BOARD OF QUEENSLAND.

*Constitution.*Constitution
of Board ;
president.

8. (1.) For the purposes of this Act there is hereby constituted the Medical Board of Queensland (herein-after referred to as "the Board") which Board shall, and notwithstanding anything to the contrary contained in this Act, be and be deemed to be so constituted on the date of the first appointment of the members thereof, and shall consist of seven members as follows, namely :—

- (i.) The Director-General who, subject as provided in subsection four of this section shall be *ex officio* a member of the Board and shall be the president thereof ;
- (ii.) Three members nominated by the Minister to represent the Government, who shall be appointed by the Governor in Council ;
- (iii.) Three members nominated by the association or associations recognised by the Minister as representative of medical practitioners, who shall be appointed by the Governor in Council :

Provided that if more than one association is recognised by the Minister as representative of medical practitioners, the Governor in Council may apportion the members mentioned in paragraph (iii.) of this subsection among such recognised associations in such manner as he shall think fit ; and moreover he may, at any time and from time to time, re-apportion such members among the associations so recognised for the time being in such manner as he shall think fit.

Appoint-
ments to be
gazetted.

(2.) Every member of the Medical Board other than the Director-General shall be appointed by the Governor in Council by notification published in the *Gazette* and shall, subject to this Act, be appointed for a period of five years and be eligible for re-appointment.

The president and the members first appointed to the Board shall respectively hold office on and from the date of the first appointment of the members other than the president thereto, and members subsequently appointed under subsection one of this section shall hold office on and from the date of the expiration of the office of the members whom they are appointed to succeed.

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(3.) If—

(i.) Within seven days after a date appointed by the Minister (who is hereby authorised to appoint such date) the three persons to be appointed as members of the Board under paragraph (iii.) of subsection one of this section have not been duly nominated by the association or associations recognised by the Minister as representative of medical practitioners ; or

Appoint-
ment of
members
representa-
tive of
medical
practi-
tioners
failing their
due
nomination.

(ii.) At any time one or more of the persons so duly nominated has or have signified to the Minister his or their refusal to act as a member of the Board,

the Governor in Council may nevertheless appoint three persons to be members of the Board under and pursuant to the powers conferred upon him in that behalf under the said paragraph (iii.) and, subject as hereinafter provided, every person so appointed shall be and be deemed to be a duly appointed member of the Board :

Provided that the Governor in Council shall include in such appointments every person who has been duly nominated by any such association or associations as aforesaid and who has not signified to the Minister his refusal to act as a member of the Board.

(4.) The Governor in Council may remove any member of the Board, including the president, from office and, in the event of a vacancy occurring in the office of president either through removal as aforesaid or otherwise howsoever, the Governor in Council may appoint a person who need not be qualified as hereinbefore prescribed to be the president of the Board :

Removal
from office.

Provided that the appointment of a person to be president made under this subsection may be so made without limit of time or may be for a limited period only.

(5.) Any extraordinary vacancy which at any time occurs in the office of member other than the president by death, removal, resignation, or otherwise shall be filled as soon as may be by the appointment by the Governor in Council of another member ; but a member appointed to fill any such vacancy shall be deemed to hold the office of his predecessor, and shall hold office only so long as his predecessor would have done had no such vacancy occurred.

Filling of
vacancies on
Board.

Appoint-
ment of
deputy
member.

(6.) If a member, including the president, is likely from any cause to be absent from meetings of the Board for more than three consecutive months, the Governor in Council may appoint a deputy (who in the case of the president need not be qualified as hereinbefore prescribed) to act for such member during his absence.

Powers of
deputy.

(7.) A deputy shall have the same powers, rights, and duties as the member in whose place he is appointed.

Appoint-
ment of
deputy for
president.

(8.) Notwithstanding anything hereinbefore in this section contained, if the president is the member likely from any cause to be absent for more than three consecutive months, the Governor in Council may appoint—

- (i.) A deputy for the president, who shall be the deputy president and have the same powers, rights, and duties as the president while he acts as such deputy; or
- (ii.) One of the representatives of the Government to be the deputy president, who shall have the same powers, rights, and duties as the president while he acts as deputy president, and another person to be the deputy for the member so appointed deputy president while he acts as such, who shall have the same powers, rights, and duties as the member whose deputy he is while he acts as such deputy.

Disqualifi-
cations from
membership
of Board.

9. The office of a member other than the president shall become vacant if such member—

- (a) Dies or becomes mentally sick; or
- (b) Becomes bankrupt or compounds or makes an arrangement with his creditors, or otherwise takes advantage of the laws in force for the time being relating to bankruptcy; or
- (c) Is absent without leave of the Board from three consecutive ordinary meetings of which due notice has been given to him; or
- (d) Resigns his office by notice in writing under his hand served personally or by post upon the registrar; or
- (e) Is removed from office by the Governor in Council; or

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- (f) Is convicted of an indictable offence or of an offence against this Act, or is subjected to disciplinary punishment under this Act.

Board to be Body Corporate.

10. (1.) The Board shall be a body corporate under the name and style of "The Medical Board of Queensland," and by that name shall have perpetual succession and an official seal, and shall be capable in law of suing and being sued in its corporate name and of acquiring, holding, and disposing of real and personal property (including, without prejudice to this subsection, the power conferred upon the Medical Board under subsection two of section forty-one of *"*The Medical and Other Acts Amendment Act of 1933*").

Board to be a body corporate.

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

Judicial notice of seal of Board.

Proceedings and Business.

11. (1.) The president shall be the executive officer of the Board.

President to be executive officer of Board.

Every appointment and every order, notice, certificate, or other document of the Board relating to the execution of this Act shall be sufficiently authenticated if signed by the president or any two members of the Board.

(2.) The president shall preside at all meetings of the Board at which he is present and, in the event of his absence at any time when there is no deputy president, one of the representatives of the Government appointed by the Minister either generally or for the particular meeting (who shall be deemed the deputy president while he so acts) shall so preside. The fact that a Government representative so presides shall be conclusive evidence of the absence of the president and that there is no deputy president.

Duties of president.

The person presiding at any meeting of the Board shall have a casting as well as a deliberative vote.

(3.) Subject to this Act, the Board shall meet at such times and conduct its business in such manner as may be prescribed or, in so far as not prescribed, as it may decide.

Business.

(4.) Special meetings may be summoned at any time by the president, and shall be so summoned by him upon receipt of a requisition in writing signed by any two members.

Quorum.

(5.) No business shall be transacted at any meeting of the Board unless at least four of the members are present when such business is transacted.

Voting.

(6.) All powers vested in the Board may be exercised by the majority of the members present at any meeting duly held, and all questions shall be decided by a majority and by open voting.

At all meetings, save as herein otherwise provided all members present shall vote.

If a member refuses to vote, his vote shall be counted for the negative.

Pecuniary
 interest.

(7.) No member shall vote or take part in any debate with respect to any matter in which he has directly or indirectly, by himself or his partners, any pecuniary interest.

Adjourn-
 ments.

(8.) The members present at a meeting may from time to time adjourn the meeting.

If a quorum is not present within half-an-hour after the time appointed for a meeting, the members present or the majority of them, or any one member if only one is present, or the registrar if no member is present, may adjourn such meeting to any time not later than seven days from the date of such adjournment :

Provided that nothing herein contained shall be construed to prevent the adjournment of any meeting to a later hour of the same day on which such meeting was appointed to be held.

Notice of
 meetings.

(9.) All notices of any meeting or adjourned meeting (other than of a meeting adjourned to a later hour of the same day on which such meeting was appointed to be held) shall be in writing, and shall be delivered, or sent by post or otherwise, to the address of each of the members previous to the meeting.

Every such notice shall specify the time of meeting and, in case of a special meeting, shall specify the object thereof.

No business shall be transacted at any special meeting except such as is stated in the notice thereof.

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(10.) If any member refuses or neglects to act or to attend any duly convened meeting of the Board, all lawful acts and proceedings of the Board shall be as valid and effectual as if they had been done or authorised by the full Board.

Validation of
proceedings.

No proceedings of the Board or of any person acting as president or member shall be invalidated by reason of any defect in his appointment or, in the case of a nominated member, nomination, or of any disqualification of any such person, or by reason of there being any vacancy in the number of members at the time of such proceedings, provided that the number of members is not reduced below four.

(11.) Nothing in this Act shall prejudice section forty-two of **"The Medical and Other Acts Amendment Act of 1933,"* and the Governor in Council may, pursuant to the said section, appoint a registrar as often as a vacancy occurs in that office and may, pursuant to the said section, appoint, from time to time, such other officers as he may deem necessary to carry out the provisions and objects of this Act :

Registrar
and officers.

Provided that the registrar in office at the passing of this Act shall, without further or other appointment, be and continue in office as the registrar.

12. The Board may for the purposes of this Act examine any person on oath or take a statutory declaration from any person.

Power of
Board to
examine on
oath.

Nothing in this Act shall prejudice the power of the judge constituting the Tribunal to punish any person for contempt of the Tribunal.

13. The president of the Board, or, by consent of the majority of the members present at any meeting of the Board, a member, may in writing under his hand summon any person to attend before the Board for the purpose of being examined with respect to any matter within the jurisdiction of the Board.

Power to
summon
witnesses.

Every person duly summoned as aforesaid who does not attend after reasonable expenses have been paid or tendered to him, or refuses to be sworn or to make a statutory declaration, or to answer any lawful question, shall be liable to a penalty not exceeding twenty pounds.

Subject to this Act the Board shall, in making any investigation into any matter or holding any inquiry or hearing any application under this Act, have all the powers, authorities, jurisdiction, and protection of a commission under **The Official Inquiries Evidence Acts, 1910 to 1929.*"

Funds.

Funds of
Board.

14. (1.) All moneys received by the Board or the registrar, including fees and penalties, shall be paid into the funds of the Board.

Without prejudice to any other right or remedy conferred upon the Board with respect thereto, all moneys, including fees, due and owing to the Board may, if not duly paid, be recovered by the Board as a debt by action in any court of competent jurisdiction.

(2.) The remuneration of the registrar and other officers appointed under this Act, and all other expenses of and incidental to the administration of this Act, including all expenses incurred by or in connection with the Tribunal, shall be paid by the Board out of its funds:

The Board may pay out of its funds any sum due under an agreement lawfully made for the purposes of this Act and any sum recoverable against the Board by process of law.

The accounts of the Board shall be audited from time to time by an officer of the Department of the Auditor-General.

Board to
publish
statement
of receipts
and
disburse-
ments.

15. The Board shall as soon as practicable after the thirtieth day of June in each year publish in the *Gazette* a statement made up to that date showing the receipts and disbursements of the Board during the preceding year certified as correct by the Auditor-General.

Power to Make By-laws.

Power to
make
by-laws.

16. (1.) The Board may with the approval of the Governor in Council make by-laws for all or any of the following purposes, namely:—

- (i.) Proceedings of the Board, including the fees (if any) which may be allowed to members of the Board for attendance at meetings of the Board.

* 1 Geo. V. No. 26 and amending Act, *supra*, pages 748 *et seq.*

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- (ii.) Duties and powers of the registrar and other officers of the Board.
- (iii.) Fees to be paid in respect of any application, registration, certificate, inspection, or other proceeding, act, or thing provided or required under this Act, and (in so far as not prescribed under **"The Coroners Act of 1930"*) in respect of the attendance of medical practitioners (including specialists) at inquests of death and the performance of *post-mortem* examinations.
- (iv.) Particulars to be entered in registers and form of and manner of keeping such registers.
- (v.) Regulating the use by medical practitioners (including specialists) of titles, letters, or words indicating or describing their qualifications, and prescribing what titles, letters, or words shall not be used, and either generally or except to describe a particular speciality or qualification.
- (vi.) Providing for and regulating the conduct of persons suspended from registration under this Act during the period of suspension; prescribing what practices by such persons shall be prohibited, and providing for and regulating applications for removal of such suspension.

(2.) A by-law may impose a penalty for any breach thereof, and may also impose different penalties in case of successive breaches, but no such penalty shall exceed twenty pounds.

PART IV.—REGISTRATION.

PART IV.—
REGISTRATION.*Registers.*

17. (1.) The registrar shall make and keep in the Registers. forms respectively prescribed (which may be on the loose-leaf or card-index system) the following registers, namely:—

- (a) A register to be called "The Register of Medical Practitioners, Queensland"; and

* 21 Geo. V. No. 17, *supra*, page 12937.

† *Sic* in *Gazette*; *semble* "specialty."

- (b) A register to be called "The Register of Specialists, Queensland," which register shall be divided according to the number of specialties for the time being prescribed by the Governor in Council :

Provided that, unless otherwise prescribed, the Register of Medical Practitioners in existence at the commencement of this Act shall continue in operation as the Register of Medical Practitioners, Queensland.

Entries in
the Register
of Medical
Practi-
tioners,
Queensland.

(2.) The registrar shall enter in the Register of Medical Practitioners, Queensland—

- (a) The full names and addresses of all persons registered as medical practitioners under this Act ; and
- (b) The date and description of the qualifications in respect of which such registration is granted ; and
- (c) In the case of any medical practitioner who is also registered as a specialist, a reference as prescribed to such registration ; and
- (d) Such other particulars as may be prescribed.

Entries in
the Register
of
Specialists,
Queensland.

(3.) The registrar shall according to their respective specialties enter in the Register of Specialists, Queensland—

- (a) The full names and addresses of all medical practitioners registered as specialists under this Act ; and
- (b) The date and description of the qualification in respect of which such registration is granted ; and
- (c) A reference as prescribed to the registration of the specialist concerned as a medical practitioner ; and
- (d) Such other particulars as may be prescribed.

(4.) Each such register shall be open to inspection to any person upon payment of the prescribed fee at all times during which the office of the Board is open for the transaction of business.

(5.) Every medical practitioner or specialist shall be entitled to obtain from the registrar a certificate of his registration in the prescribed form.

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Medical Act.

(6.) As soon as may be after every registration the registrar shall cause particulars thereof as specified in subsection two or, as the case may be, subsection three of this section, to be published in the *Gazette*.

(7.) The registrar shall in the month of May in each calendar year cause lists of the medical practitioners and of the specialists respectively registered in Queensland certified to be correct up to the thirtieth day of April of that calendar year, to be published in the *Gazette* as "The List of Medical Practitioners, Queensland, for the _____," followed by the number of the year in which it is published, and as "The List of Specialists, Queensland, for the _____," followed by the number of the year in which it is published, as the case may be. Publication of registers.

(8.) A copy of the *Gazette* containing either such list for any year shall be *primâ facie* evidence in all proceedings that the persons named in such list were or are at all material times during the period from and after the date of the publication thereof and up to the thirtieth day of April next ensuing registered according thereto and possess the qualifications therein mentioned; and the absence of the name of any person from either such list shall be *primâ facie* evidence that such person is not registered according to the list concerned; and the fact that either list does not show that registration according to it has been granted in respect of any particular qualification shall be *primâ facie* evidence that the person concerned does not possess that qualification.

Existing Registrations.

18. All persons whose names were, immediately before the passing of this Act, registered in the Register of Medical Practitioners kept in pursuance of the Acts repealed by this Act, shall, without application or inquiry, be registered under this Act, and shall be deemed to have been so registered as from the passing of this Act, but shall be subject in all respects to the provisions of this Act except where otherwise provided. Existing registrations.

Qualifications for Registration.

19. (1.) Subject to this Act, every person shall be entitled to be registered as a medical practitioner under this Act who makes application to the Board in the prescribed form and pays the prescribed registration Medical practitioner.

fee, and who proves to the satisfaction of the Board that he has attained the age of twenty-one years and is of good fame and character, and that—

- (a) He is the holder of a degree (obtained after due examination) in medicine or surgery of any university in the Commonwealth of Australia or the Dominion of New Zealand, which is legally authorised to grant such degree; or
- (b) He is registered or possesses a qualification entitling him to be registered under the Medical Acts of the Parliament of Great Britain and Northern Ireland or any Act amending or substituted for those Acts or any of them—

and who further proves to the satisfaction of the Board that, subsequent to obtaining such qualification so relied upon by him—

- (c) He has served for a period or periods amounting in the aggregate to twelve months as a resident medical officer and has obtained the prescribed experience in medicine, surgery, and obstetrics, in one or more of the hospitals hereinafter specified, namely, any hospital to which **“The Hospitals Act of 1936”* applies, or any hospital in Queensland approved by the Governor in Council or, in the case of a hospital outside Queensland, a hospital specifically approved by the Governor in Council; and in any event produces a certificate or certificates as prescribed showing that such service or services was or were performed and completed to the satisfaction of the competent authority or authorities controlling the hospital or hospitals concerned; or
- (d) He is duly entitled to practise and practised as a medical practitioner for at least three years in a State or country outside Queensland.

(2.) If a resident medical officer satisfies the Medical Board that a certificate of service as prescribed by paragraph (c) of subsection one of this section was

* 1 Geo. VI. No. 4, *supra*, page 15782.

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refused in his case by any competent authority referred to in that paragraph, and that he is justly entitled to such certificate, the Board may direct the competent authority concerned to issue, and thereupon such competent authority shall issue, such certificate.

The Board shall make a report to the Minister upon any case arising under this subsection.

(3.) Any certificate of service as prescribed by paragraph (c) of subsection one of this section shall be in the prescribed form or to the like effect and shall contain the prescribed particulars or, in so far as not prescribed, particulars of the experience in medicine, surgery, and obstetrics obtained by the applicant for registration to whom it refers.

(4.) The Governor in Council may direct the governing authority of any hospital within the State referred to in subsection one of section nineteen of this Act to appoint as a resident medical officer any person who (being otherwise qualified as prescribed by paragraph (a) or (b) of subsection one of the said section) will be entitled to be registered as a medical practitioner upon serving as a resident medical officer in a hospital and for the period prescribed by paragraph (c) of the said subsection one, and thereupon the governing authority shall so appoint such person and shall continue such appointment for the period specified with respect to his service unless the Governor in Council otherwise directs.

Power of Governor in Council to direct certain medical appointments to hospital.

Registration for Limited Period.

20. (1.) Any person who applies in the prescribed form to be registered as a medical practitioner under this Act, and who proves to the satisfaction of the Board that he has attained the age of twenty-one years and is of good fame and character and that—

Registration for limited period.

- (a) He is the holder of a degree obtained after due examination in medicine or surgery of any university in the Commonwealth of Australia or the Dominion of New Zealand which is legally authorised to grant such degree; or
- (b) He is registered or possesses a qualification entitling him to be registered under the Medical Acts of the Parliament of Great Britain and Northern Ireland or any Act amending or substituted for those Acts or any of them; or

- (c) He has passed through a regular course of medical study of not less than five years' duration in a school of medicine and has received after due examination from some university, college, or other body duly recognised for that purpose in the country to which such university, college, or other body belongs, a diploma, degree, or license which—
- (i.) In the opinion of the Board qualifies him to practise medicine, and
 - (ii.) Is not inferior to the degree qualifying a person to practise medicine issued after due examination by the University of Queensland,

and that he has come to Queensland—

- (d) At the request of the University of Queensland or of any State institution or organisation for the purpose of engaging with the approval of the Governor in Council in such research work or teaching as may be approved by the Governor in Council; or
- (e) At the direction or request of the Commonwealth to engage in official duties of a medical nature within the State,

shall be exempt from serving as a resident medical officer in a hospital or hospitals for the period specified in paragraph (c) of subsection one of section nineteen of this Act, and shall be entitled to be registered as a medical practitioner at all times during the period while he is engaged as aforesaid, notwithstanding that he has not served as a resident medical officer as aforesaid.

(2.) The name of a medical practitioner who relied for registration upon a qualification specified in paragraph (d) or (e) of subsection one of this section shall only remain upon the register for the period during which he continues to possess such qualification, and the Board shall direct the registrar to erase his name from the Register of Medical Practitioners, Queensland, forthwith upon his ceasing to hold such qualification.

The Board may at any time and from time to time call upon any such medical practitioner to satisfy it that he is still possessed of the qualification upon which he so relied, and if he fails so to do shall direct the registrar to erase his name from the register.

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*Medical Act.*PART IV.—
REGISTRATION.*Registration of Specialists.*

21. The Governor in Council may, upon the recommendation of the Board, from time to time prescribe by Order in Council what branches of medicine shall be and be deemed to be specialties with respect to which a medical practitioner who is duly qualified may be registered as a specialist.

Determination of specialties.

22. A medical practitioner who makes application in the prescribed form for registration as a specialist and pays the prescribed fee, and who—

Qualifications for registration as a specialist.

- (a) If such application is made on or before the thirty-first day of December, one thousand nine hundred and forty-one, shall, to the satisfaction of the Board and in virtue of all the circumstances, prove that he has gained special skill in a particular specialty by adequate experience in that specialty in practice for a period of not less than five years, or in a hospital approved by the Board for a period of not less than three years, or partly in practice and partly in a hospital approved as aforesaid for a period of time of not less than four years; or
- (b) If such application is made on or after the first day of January, one thousand nine hundred and forty-two, in addition to proving that he possesses a qualification prescribed by paragraph (a) of this section, also produces to the Board the diploma in the specialty (if any such diploma is generally granted or recognised in such specialty) to which his application relates of a university or other institution approved by the Board,

shall be entitled to be registered as a specialist in accordance with his application.

23. The Board may, upon application in that behalf made by a specialist and upon the surrender by him of his certificate of registration as such, direct the registrar to erase the name of such specialist from the Register of Specialists, Queensland, but such erasure shall not prejudice the registration as a medical practitioner of the applicant therefor.

Voluntary surrender of registration as specialist

*Refusal to Register.*Refusal to
register.

24. If the application of any person to be registered as a medical practitioner or specialist is refused by the Board it shall, if required by him, state its grounds for such refusal and such person shall have the right of appeal to the Tribunal, and such appeal shall be in the nature of a rehearing, and the decision of the Tribunal shall, subject to this Act, be final, and the Board shall give effect thereto.

Annual Fees.

Annual fees.

25. Every medical practitioner shall pay to the Board such annual license fee as may be prescribed by the by-laws, and every medical practitioner who is a specialist shall pay to the Board such additional annual license fee as may be prescribed by the by-laws.

Such annual license fee (including in the case of a specialist the additional annual license fee prescribed) shall be paid to the Board by the medical practitioner concerned within the period from the first day of January up to and including the thirtieth day of April of every year.

If any medical practitioner fails to pay such annual license fee (including in the case of a specialist the additional annual license fee prescribed) within such period as aforesaid, the registrar shall thereupon erase his name from the register or, in the case of a specialist, from one or both registers as the case may require, but the Board may at any time restore to the register or, as the case may be, both registers, the name of any medical practitioner failing to make such payment on receiving all arrears and on payment of such fines as may be prescribed by the by-laws.

*Additional Qualifications.*Registers
may be
altered to
insert new or
additional
qualifica-
tions.

26. Every medical practitioner or specialist who obtains any higher degree, diploma, or status, or any qualification other than the qualification in respect of which he is registered, shall be entitled to have such higher degree, diploma, status, or additional qualification inserted in the proper register on making application to the Board and on payment of the prescribed fee.

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*Medical Act.*PART IV.—
REGISTRATION.*Certain Entries may be Erased.*

27. (1.) The registrar shall forthwith erase or suspend from the register the name of any medical practitioner or specialist whose registration is ordered or directed to be erased or suspended by the Tribunal or the Board.

Power to
erase or
suspend from
registers.

(2.) The Board shall from time to time order the registrar to erase any entry in either register which is proved to the satisfaction of the Board to have been fraudulently or incorrectly made, or to be no longer a true description of the capacity or special skill of the person to whom such entry refers.

(3.) Every medical practitioner or specialist on changing his place of business shall forthwith give notice of the fact by post to the registrar.

Every district registrar of deaths in Queensland on registering the death of any medical practitioner or specialist shall forthwith transmit notice thereof to the registrar.

(4.) The registrar shall from time to time erase from the registers the names of all medical practitioners (including specialists) who have died, and shall make such alterations and amendments in either register as the Board from time to time directs for the purpose of making the register concerned an accurate record of the names, addresses, and qualifications and, in the case of specialists, qualifications with respect to any specialty, of the medical practitioners or, as the case may be, specialists for the time being.

For the purposes aforesaid the registrar may send a prepaid post letter to any medical practitioner or specialist addressed to him according to his address in the register concerned inquiring whether or not he has changed his business address, and if no answer is returned to such notice within three months after the posting thereof the Board may order the registrar to erase the name of the medical practitioner or specialist to whom the same was so sent from the register or, in the case of a specialist, from both registers.

(5.) Any name erased from either or both of the registers under this section may, subject to any order of the Tribunal, be restored by the Board, and shall

be restored by the Board if the Tribunal so orders upon an application for such restoration made by the person concerned, which application such person is hereby authorised to make.

Removal of Names from Registers.

Removal
from
register.

28. (1.) The Board shall have power to direct the registrar to erase from the register the name of any medical practitioner—

- (i.) Who has been certified mentally sick ; or
- (ii.) Whose name has been ordered to be erased from the register by the Tribunal pursuant to the powers conferred upon the Tribunal in that behalf under this Act.

(2.) When the Board directs that the name of a medical practitioner be erased from the Register of Medical Practitioners, Queensland, under and pursuant to subsection one of this section it shall, if such medical practitioner is also registered as a specialist, direct his name to be erased from the Register of Specialists, Queensland.

(3.) When, pursuant to the powers conferred upon it in that behalf by this Act, the Tribunal orders that the registration of any medical practitioner be suspended the Board shall have power to direct the registrar to enter particulars of such order in the register and also, if such medical practitioner is registered as a specialist, in the Register of Specialists, Queensland, and during the period specified in such order the name of such medical practitioner shall be deemed to be erased from the Register of Medical Practitioners, Queensland, and, if he is also registered as a specialist, from the Register of Specialists, Queensland, and such medical practitioner during such period shall not be deemed to be registered under this Act.

Return of Certificate.

Return of
certificate.

29. (1.) Any person whose name has been erased from either register or whose registration in either register has been suspended shall within fourteen days from the notification to such person of such erasure or suspension surrender to the Board any certificate issued to such person under the Act with respect to his registration in either such register.

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Medical Act.

(2.) On failure to do so, such person shall be liable to a penalty not exceeding twenty pounds.

(3.) The erasure from the register or suspension of the registration of any person shall be effectual notwithstanding his failure to surrender any such certificate.

Restoration of Name.

30. (1.) When the name of any medical practitioner (including any specialist) has been erased from the register or registers under this Act, the name of that person shall not be again entered on such register except by direction of the Board or by order of the Tribunal: Restoration of name.

Provided that on restoration to the register after suspension due regard shall be had to any by-laws in that behalf.

(2.) The Board may if it thinks fit in any case restore to a register any name erased therefrom which it is authorised or required under this Act to so restore without payment of fee or on payment of such fee, not exceeding the registration fee, as the Board may direct.

Rights and Privileges of Medical Practitioners.

31. (1.) No person other than a medical practitioner shall hold any appointment as a physician, surgeon, or other medical officer in any passenger or other vessel leaving any port and registered in Queensland, or in any public or private hospital or other institution or society for affording medical relief in sickness, infirmity, or old age, or as a medical inspector, medical officer of health, or health officer. Provisions as to right to practise medicine.

(2.) No person other than a medical practitioner shall sign any medical certificate of the cause of death of any deceased person.

(3.) No certificate required by any Act from any physician, surgeon, licentiate in medicine and surgery, or medical practitioner shall be valid unless the person signing the same is a medical practitioner.

(4.) Notwithstanding anything contained in subsection one of this section, a person who (being otherwise qualified as prescribed by paragraph (a) or (b) of subsection one of section nineteen of this Act) will be entitled to be registered under this Act as a medical practitioner

upon serving as a resident medical officer in a hospital and for the period prescribed by paragraph (c) of the said subsection one, may, subject as hereinafter provided, serve as a resident medical officer for a period specified in paragraph (c) of the said subsection one in any hospital as prescribed in his case in the same manner as a medical practitioner might be duly appointed to such service :

Provided that the provisions of section five of **"The Hospitals Act of 1936"* shall apply and extend with respect to every appointment referred to in this subsection to a hospital within the State mentioned in the said paragraph (c), and for the purposes of the said paragraph (c) every hospital within the State so mentioned shall be a hospital to which the said section five of **"The Hospitals Act of 1936"* applies and extends.

Penalty for Forging Registration.

Penalty
for forging
registration.

32. Any person who wilfully makes or causes to be made any false entry in or falsification of either register, and any person who wilfully procures or attempts to procure himself or any other person to be registered as a medical practitioner or specialist under this Act by making, uttering, or producing, or causing to be made, uttered, or produced, any false or fraudulent representation or declaration, either verbally or in writing, or any false, fraudulent, or counterfeit degree, diploma, license, certificate, letter, testimonial, or other document whatsoever, and any person aiding or assisting therein, shall be liable to imprisonment with or without hard labour for a term not exceeding six months, or in the discretion of the adjudicating court to a penalty not exceeding one hundred pounds.

PART V.—
THE
MEDICAL
ASSESSMENT
TRIBUNAL.

PART V.—THE MEDICAL ASSESSMENT TRIBUNAL.

Constitution.

Medical
Assessment
Tribunal
constituted.

33. (1.) For the better control and discipline of medical practitioners (including specialists) and for the better determination of prescribed matters having a medical element there shall be a "Medical Assessment Tribunal" which shall be constituted by a judge of the Supreme Court.

The Tribunal shall be a Superior Court of Record.

* 1 Geo. VI. No. 4, *supra*, page 15782.

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TRIBUNAL.

(2.) Subject to this Act the judge shall have all the powers, jurisdiction, and authority of a judge of the Supreme Court of Queensland in and with respect to the exercise by him of all or any of his powers, authorities, and jurisdiction under this Act except the power to award costs.

Supreme
Court judge
to constitute.

(3.) The Governor in Council shall appoint two medical practitioners who shall sit as assessors with the judge for the time being constituting the Tribunal.

Assessors
upon.

One of such medical practitioners shall be nominated by the Minister to represent the Government, and the other such medical practitioner shall be nominated by the association or associations recognised by the Minister as representative of medical practitioners.

(4.) It shall be the duty of the assessors to advise the judge as to what in their opinion is the proper determination of such questions of fact as may be referred to them by him for an expression of opinion.

Power of
assessors.

(5.) In the case of every matter heard before the Tribunal all questions of law and fact shall be determined by the judge, but in determining any question of fact the judge may give such effect as he shall think just to the opinion (if any) of the assessors or either of them thereupon.

Powers
of judge.

(6.) The Chief Justice shall, and may from time to time, notify to the Minister the name of one of the judges of the Supreme Court at Brisbane who will be the judge to preside at sittings of the Tribunal until the name of another such judge is nominated in his place, and it shall be the duty of the judge so named to so preside.

Chief
Justice to
nominate
Tribunal
judge.

In the event of the judge so named being unable for any reason to constitute the Tribunal, the Chief Justice shall notify to the Minister the name of another judge of the Supreme Court to act in his place, and it shall be the duty of the judge so named to act in his place accordingly.

(7.) If the medical practitioner to be nominated from time to time by the association or associations referred to in subsection three of this section is not duly nominated at any time within seven days after a date fixed by the Minister in that behalf, the Governor in Council may nevertheless appoint two medical practitioners to be assessors as hereinbefore prescribed.

Power to
appoint
assessors
failing
nomination.

Tenure of
office by
assessors.

(8.) The assessors and each of them shall hold office at the pleasure of the Governor in Council :

Provided that the Governor in Council may from time to time appoint another medical practitioner to act in the place of an assessor who is unable for any reason or who refuses to act, and the medical practitioner so appointed shall have power and authority to act and shall act accordingly.

Gazette
notice of
name of
Tribunal
judge and
assessors.

(9.) The Governor in Council shall notify in the *Gazette* the name of the judge who is to constitute the Tribunal and the names of the assessors appointed as aforesaid.

(10.) Every sitting of the Tribunal shall be held at such time and place as the judge shall appoint, and the judge may adjourn any sitting thereof from time to time and/or place to place.

Jurisdiction.

Jurisdiction
of the
Tribunal.

34. (1.) The Tribunal shall have power and authority to hear and determine or, as the case may require, investigate—

- (a) Any charge made against any medical practitioner (including any specialist) under this Act ; or
- (b) Any application which, under this Act, may be made to the Tribunal ; or
- (c) Any other matter or proceeding which, under this Act, may be referred to or heard and determined by the Tribunal, and either in its appellate or original jurisdiction.

(2.) The Tribunal may order that the name of any medical practitioner (including any specialist) erased from the register or registers by order of—

- (i.) The Tribunal ; or
- (ii.) The Board,

be restored to such register or registers :

Provided that in ordering the removal of any suspension the Tribunal shall have regard to any by-laws in that behalf.

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*Medical Act.*PART V.—
THE
MEDICAL
ASSESSMENT
TRIBUNAL.*Misconduct in a Professional Respect.*

35. Without limiting the meaning of the expression “misconduct in a professional respect” a medical practitioner (including a specialist) shall be guilty of such misconduct who—

Extension
of meaning
of term
“misconduct
in a
professional
respect.”

- (i.) Was within the period of twelve months next preceding the date when he is so charged, guilty of addiction to intoxicating liquor or to any deleterious drug ; or
- (ii.) Makes use of any medical title or description other than a title or description contained in the description of qualifications in respect of which registration has been granted to him ; or
- (iii.) Is guilty of infamous conduct in a professional respect, malpractice, or unprofessional conduct or practice ; or
- (iv.) Signs or gives under his name and authority any certificate, notification, report, or any document of a kindred character, signed or given by him in his professional capacity for subsequent use in any court of law, or for administrative or governmental purposes, or for the pecuniary interest of himself or other person concerned, where such certificate, notification, report, or other document of a kindred character is untrue, misleading, or improper ; or
- (v.) Shall by his presence, countenance, advice, assistance, or co-operation knowingly enable any person other than a medical practitioner or specialist to attend, treat, or perform any operation upon a patient in respect of any matter requiring professional discretion or skill where, in the opinion of the Tribunal, such conduct has been, is, or is likely to be, dangerous to the health of the public or of any individual :

Provided that this paragraph shall be read and construed subject to section nineteen of this Act, and, in addition, shall not restrict the proper training and instruction of medical students *bona fide* admitted to any Faculty of Medicine in any university in Australia, or the legitimate

employment of dressers, midwives, nurses, dispensers, surgery attendants, masseurs or masseuses, and skilled mechanics under the immediate personal supervision of the said medical practitioner :

Provided further that this paragraph shall not apply to advice given in case of emergency to enable urgent treatment of or the performance of an operation upon a patient where no medical practitioner is available for such purpose and the circumstances warrant such advice being given ; or

- (vi.) Contravenes or fails to comply with, or counsels, procures, aids, abets, or does or omits to do any act for the purpose of enabling any other person to contravene or fail to comply with, any act or law respecting dangerous drugs whether or not such contravention or failure to comply has been the subject of penal proceedings ; or
- (vii.) With a view to his own gain advertises, either directly or indirectly, or sanctions advertisements, or employs or sanctions the employment of agents or canvassers for the purpose of procuring patients to the detriment of other practitioners, or associates with or accepts employment under any association which canvasses or advertises for the purpose of procuring patients ; or
- (viii.) By the issue of any certificate, notification, report, or other document of a kindred character enables any person not registered under **“The Nurses and Masseurs Registration Acts, 1928 to 1938,”* to attend women in childbirth otherwise than under the direct and personal supervision of a medical practitioner or otherwise than in accordance with †*“The Health Act of 1937”* or any amendment thereof ; or
- (ix.) Upon obtaining information which indicates an attempted or completed crime or any illegal operation fails to call in another medical practitioner for consultation

* 19 Geo. V. No. 10 and amending Acts, *supra*, pages 12202 *et seq.*

† 1 Geo. VI. No. 31, *supra*, page 16597.

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Medical Act.

if reasonably available and to advise the Director-General by the most speedy method of correspondence, whether the same be by telephone, telegraph, or letter, of such indication of attempted or completed crime or illegal operation ; or

- (x.) When called to treat any wound from a cutting instrument or other weapon (not being a firearm) which he is not satisfied was accidentally incurred, or to treat any wound from a bullet, fails to call in another medical practitioner, if reasonably available for consultation, and to advise the Director-General by the most speedy method of correspondence, whether the same be by telephone, telegraph, or letter ; or
- (xi.) When called to resuscitate or otherwise treat any person suffering from partial strangulation, asphyxiation, or trauma caused by heat, which he is not satisfied was accidentally incurred, or to resuscitate any person suffering from trauma caused by electricity, fails to advise the Director-General by the most speedy method of correspondence, whether the same be by telephone, telegraph, or letter ; or
- (xii.) Whether in his capacity as a general practitioner or as a specialist omits through negligence to do something which any reasonable man guided by those considerations which ordinarily regulate the conduct of human affairs would do, or does something which a reasonable man claiming such general or special qualifications would not do, or shows in any other way the absence of such reasonable skill and attention as shall have endangered the health of the patient or prolonged his illness or period of convalescence.

Where any Act or law expressly or impliedly authorises a medical practitioner to associate with or accept employment under any association, then the association with or employment under such association of a medical practitioner in terms of such express or implied authority shall not be or be deemed to be misconduct in a professional respect.

Institution of Proceedings and Charges before Tribunal.

Board may
require
Tribunal to
make
investiga-
tions.

36. Subject to this Act, the Board may refer to the Tribunal for investigation and determination any question as to the conduct or qualifications of any medical practitioner (including any specialist) which, in the opinion of the Board, requires investigation in the public interest.

For the purposes of the hearing thereof, any such reference shall be deemed to be a charge made by the Board.

Board to
refer matters
to Tribunal.

37. (1.) If the Board is of opinion that any medical practitioner (including any specialist)—

- (i.) Has had the qualification upon which he relied for registration as a medical practitioner withdrawn or cancelled by the university, college, or other body by which it was conferred, or by the General Council of Medical Education and Registration of the United Kingdom ; or
- (ii.) Has had his name erased from the Register maintained by the General Council of Medical Education and Registration of the United Kingdom or from the register of any other body duly authorised to register medical practitioners ; or
- (iii.) Has been convicted in Queensland of an indictable offence, or has been convicted in any other part of His Majesty's dominions or elsewhere of an offence which would be indictable if committed in Queensland, or has been convicted in Queensland or in any other part of His Majesty's dominions or elsewhere of any other offence for which in the opinion of the Board he should be subjected to disciplinary punishment under this Act ; or
- (iv.) Is guilty of misconduct in a professional respect,

it may proceed to have the medical practitioner concerned charged accordingly before the Tribunal and, upon so doing, shall have the conduct of the charge as prosecutor :

Provided the Tribunal shall not order that the name of any medical practitioner (including any specialist) be erased from the register under paragraph (i.) or

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paragraph (ii.) of this subsection except with respect to a withdrawal or cancellation of a qualification or an erasure of a registration which, if it had occurred in Queensland, would have been an adequate cause for the erasure of the name of the medical practitioner concerned from the register.

(2.) Any person aggrieved by any alleged misconduct in a professional respect of a medical practitioner (including a specialist) may make a complaint to the Board with respect thereto.

(3.) Upon a complaint made to it under subsection two of this section the Board shall investigate such complaint and, without limiting its powers to so investigate, may—

- (a) Require further particulars of the complaint ;
- (b) Require the complaint and/or the particulars of the complaint to be verified by statutory declaration.

(4.) If upon such investigation the Board is of opinion that the evidence has sufficiently established a *primâ facie* case, it shall proceed to charge the person concerned before the Tribunal according to the complaint.

(5.) If upon such investigation the Board is of opinion that the evidence has not sufficiently established a *primâ facie* case it shall dismiss the complaint.

(6.) Notwithstanding anything contained in this section, when the Governor in Council directs that the subject-matter of any such complaint is to be heard and determined by the Tribunal, such direction shall prevail and the Tribunal and the Board shall give effect thereto.

(7.) The Tribunal may hear and determine any charge notwithstanding that any complaint relating to the subject-matter thereof has been dismissed by the Board.

Matters having a Medical Element.

38. The Governor in Council may from time to time by Order in Council prescribe what matters shall be matters having a medical element to which subsection one of section thirty-three of this Act refers.

When
matter
deemed to
contain a
medical
element.

Any such Order in Council may be made with respect to any such matter either generally or with respect to any court, judge, justice, or person acting judicially before which such matter occurs.

The court, judge, justice, or person acting judicially having jurisdiction with respect to any such prescribed matter may refer the medical element thereof to the Tribunal for its determination, and such determination shall have the following effect, namely:—

- (i.) If the reference has been made by a magistrates court, or by a court of petty sessions, or by a police magistrate or industrial magistrate, or by justices, or by any other person (not being a judge of the Supreme Court) acting judicially, such determination shall be the decision in the matter with respect to the medical element involved and shall have effect accordingly; and
- (ii.) If the reference was made by any other court or judge, the court or judge may give such effect to such determination as he or it shall think fit, and the effect so to be given shall be decided by the court or judge concerned as a matter of law.

Proceedings.

How
Tribunal to
conduct its
proceedings.

39. The Tribunal shall, in the hearing of any charge against, or application by or with respect to, or investigation into any question respecting the conduct or qualifications of, a medical practitioner (including a specialist) if so required by the Board or other complainant or by the medical practitioner concerned, sit in open court, and every party to any such proceedings shall have the right to appear either in person or by an agent, solicitor, or counsel.

Evidence
on charge of
misconduct
in a
professional
respect
against a
medical
practitioner
under this
Act.

40. Notwithstanding anything contained in any Act or law, or rule or process of law, or judgment of any court of competent jurisdiction, the Tribunal shall in the conduct of any proceedings in respect of a charge be fully authorised to receive and admit on production as evidence in the proceedings concerned the judgment and findings of the Supreme Court (or on appeal of the Full Court or Court of Criminal Appeal) whether in its civil or criminal jurisdiction in any case where such

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MEDICAL
ASSESSMENT
TRIBUNAL.

judgment and findings are in the opinion of the Tribunal relevant to such charge; and moreover the Tribunal shall in the conduct of such proceedings be fully authorised and entitled to receive and admit on production as evidence in the proceedings concerned a transcript of shorthand notes, duly certified as correct, of the evidence of witnesses taken in the Supreme Court, whether in its civil or criminal jurisdiction, which evidence is in the opinion of the Tribunal relevant to such charge; and in any such case it shall not be necessary for any such witnesses, the transcript of whose evidence is so produced to the Tribunal, to be present at the proceedings concerned.

Disciplinary Punishment.

41. (1.) If the Tribunal finds any medical practitioner (including any specialist) guilty of any charge made against him under this Act it may, according as it shall deem just under the circumstances—

Disciplinary
punishment.

- (i.) Order his name to be erased from the Register of Medical Practitioners, Queensland; or
- (ii.) Order that his registration as a medical practitioner be suspended for such time as it shall specify; or
- (iii.) Order that he pay to the Board by way of a pecuniary penalty such sum, not exceeding one hundred pounds, as it shall specify.

(2.) When the name of a medical practitioner who is also a specialist is ordered to be erased from the Register of Medical Practitioners, Queensland, under paragraph (i.) of subsection one of this section, his name shall also be erased from the Register of Specialists, Queensland.

(3.) When the registration of a medical practitioner who is also a specialist is suspended under paragraph (ii.) of subsection one of this section, the order shall also suspend and be deemed to suspend his registration as a specialist for the period during which it suspends his registration as a medical practitioner.

(4.) During the period of suspension specified in an order made under paragraph (ii.) of subsection one of this section, the name of the medical practitioner concerned shall be deemed to be erased from the Register of Medical Practitioners, Queensland, and also, if he is a specialist,

from the Register of Specialists, Queensland; and such person for such period shall be deemed to be not registered under this Act either as a medical practitioner or, as the case may be, as a medical practitioner and specialist.

(5.) An order made under paragraph (iii.) of subsection one of this section may direct that the registration of the medical practitioner concerned be suspended if he fails to pay the penalty imposed within the time allowed by the order :

Provided that when no time is allowed by the order for payment of the penalty, the amount thereof shall be due and payable to the Board forthwith :

Provided further, that if the order does not direct registration to be suspended upon failure to duly pay the penalty, then, if the penalty is not duly paid, the Board may apply to the Tribunal for an order suspending the registration of the medical practitioner concerned, and the Tribunal may make an order suspending his registration for such period as it shall think just.

The provisions of subsections three and four of this section shall, *mutatis mutandis*, apply and extend with respect to the suspension of registration of a medical practitioner ordered under this subsection.

Recording of Decision of Tribunal.

42. Every order, determination, or other finding made by the Tribunal shall be signed by the judge constituting the Tribunal, and shall be prefaced by a statement of the findings of the Tribunal in relation to the facts of the case and shall be filed with the registrar of the Board (who shall be for all purposes the registrar of the Tribunal) and shall thereupon be deemed to be served upon the Board.

No order, determination, or other finding so filed shall be open to inspection by any person other than by persons directly implicated, but the Board may and is hereby authorised in its absolute discretion to publish such order, determination, or finding or to withhold publication of the same.

Appeal from Tribunal.

43. (1.) Any person aggrieved by a decision of the Tribunal, who desires to appeal therefrom on the ground that the decision is erroneous in point of law, or is in excess of jurisdiction, may, within six weeks after the

Decision of
Tribunal to
be filed.

Appeal to
Full Court
on questions
of law.

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pronouncing of the decision or such further time as the Tribunal may allow, apply in writing to the judge to state and sign a case setting forth the facts and the grounds of decision for appeal thereon to the Full Court of the Supreme Court.

(2.) The appellant shall, before a case is stated, enter into a recognizance before the judge or a justice of the peace, with or without a surety or sureties, conditioned to prosecute the appeal without delay and pay such costs as the Full Court shall award.

(3.) The appellant shall, within ten days after receiving the case, transmit the same to the Registrar of the Supreme Court, first giving notice in writing of the appeal with a copy of the case to the other or respondent parties (if any).

(4.) A case may be stated by the judge at the instance of the Governor in Council, or the Board, or of his own motion.

44. (1.) In any case in which the judge is of opinion that the application is frivolous, but not otherwise, he may refuse to state a case, and thereupon shall, at the request of the applicant, sign and deliver to him a certificate of such refusal. When Tribunal may refuse to state a case.

(2.) When the judge refuses to state a case, the applicant may, within six weeks after such refusal, apply to the Supreme Court or another judge thereof, upon an affidavit of the facts, for an order calling upon the judge, and also upon any party interested in supporting the decision, to show cause why a case should not be stated.

The order may be made returnable on any day on which the Full Court is appointed to sit; and whether cause is then shown or not, the Full Court may make the order absolute, or discharge it with or without costs.

The judge, upon being served with an order absolute, shall state a case accordingly.

45. The Full Court, when a case is transmitted under this Act, shall hear and determine every question of law arising thereon, and may remit the matter to the Tribunal with the opinion of the Full Court thereon, or may make such order in relation to the matter as seems proper, and may make such order as to costs as to the Full Court may seem fit. Full Court to determine the questions on the case.

Case may
be sent
back for
amendment.

46. The Full Court may cause a case to be sent back to the judge for amendment, and thereupon the same shall be amended accordingly, and judgment shall be delivered by the Full Court after it is amended.

PART VI.—
PROHIBITED
PRACTICES.

PART VI.—PROHIBITED PRACTICES.

Prohibited
practices.

47. (1.) No person other than a medical practitioner shall advertise or hold himself out as being, or in any manner pretend to be or possess the status of, or take or use or by inference adopt (either alone or in conjunction with any other title, word, or letter) the name, title, or letters of a physician, doctor of medicine, licentiate in medicine or surgery, master in surgery, bachelor of medicine or surgery, doctor, surgeon, medical or qualified or registered practitioner, apothecary, accoucheur, or take or use or by inference adopt any other medical or surgical name, title, or letters implying, or that may be construed to imply, that he is a medical practitioner, or that he is qualified to practise medicine.

(2.) No person other than a medical practitioner shall advertise or hold himself out as being, or in any manner pretend to be or possess the status of, or take or use or by inference adopt (either alone or in conjunction with any other title, word, or letter) the name, title, or letters of a specialist with respect to any branch of medicine, or take or use or by inference adopt any other medical or surgical name, title, or letters implying, or that may be construed to imply, that he is a specialist or qualified to practise as a specialist with respect to any branch of medicine.

(3.) On and after the first day of January, one thousand nine hundred and forty-two, no medical practitioner other than a specialist shall advertise or hold himself out as being, or in any manner pretend to be or possess the status of, or take or use or by inference adopt (either alone or in conjunction with any other title, word, or letter) the name, title, or letters of a specialist with respect to any branch of medicine, or take or use or by inference adopt any other medical or surgical name, title, or letters implying, or that may be construed to imply, that he is or is qualified to practise as a specialist with respect to any branch of medicine.

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(4.) Any person who advertises or holds himself out as being or in any manner pretends to be or possess the status of, or takes or uses (either alone or in conjunction with any other title, word, or letter) the name, title, or letters of "consultant" (or of any word or words which may be construed to imply that he is a "consultant") with respect to medicine or any branch of medicine, shall—

- (a) If he is not a medical practitioner be deemed to hold himself out as being a medical practitioner; or
- (b) If he is a medical practitioner be deemed to hold himself out as being a specialist.

In the case of a medical practitioner referred to in paragraph (b) it shall be immaterial that the holding-out does not refer to any particular specialty.

(5.) Every person who by himself or by an assistant, servant, agent, or manager, and every person who as assistant, servant, agent, or manager on behalf of another, does or permits any act, matter, or thing contrary to any provision of subsection one, or two, or three of this section shall be guilty of an offence and liable to a penalty of not less than five pounds nor more than one hundred pounds, or to imprisonment for a period not exceeding six months.

(6.) Every person who exhibits or publishes, or causes, permits, or suffers to be exhibited or published, any letter, circular, placard, handbill, card, or advertisement of any kind whereby any person other than himself advertises or holds out or is advertised or held out contrary to any provision of subsection one, or two, or three of this section, or attempts so to do, shall be guilty of an offence and liable to a penalty of not less than three pounds nor more than twenty pounds.

(7.) Where in any proceedings for an offence against this section it appears from any document or paper that any person is advertised or held out contrary to any provision of this section, the defendant shall be convicted unless he proves to the satisfaction of the adjudicating court that he did not authorise and was not responsible for such advertising or holding-out.

(8.) This section shall not apply to any newspaper proprietor or publisher publishing such advertisement before written notice from the registrar that such advertisement is contrary to this section.

PART VII.—MEDICAL FEES.

Power of
medical
practitioner
to recover
his fees, &c.

48. (1.) Every medical practitioner shall be entitled to sue in any court of competent jurisdiction for the recovery of the charge or remuneration for any medical or surgical advice, service, attendance, or operation rendered or performed by him.

(2.) No action or suit for the recovery of fees or remuneration for professional services of any kind as a medical practitioner shall be commenced until the expiration of one month after an account setting out the amount claimed has been served personally or by post upon the party to be charged with the same.

(3.) The party chargeable may within one month after service upon him of an account apply in the prescribed manner to the Board to review the same upon the ground that the amount thereof is excessive or unreasonable, and, in the event of his so doing, shall serve notice of his application upon the medical practitioner concerned either personally or by post.

(4.) Where an application is made pursuant to subsection three of this section to review an account, the Board shall proceed to review the account, and shall certify upon such review what is found to be a reasonable charge or remuneration in respect of the professional services to which the account relates.

(5.) The Board may require such evidence to be furnished as it may think necessary or desirable for the purpose of such review and may fix a time within which such evidence shall be furnished.

If any person neglects or fails to furnish any evidence so required within the time so fixed, the Board may proceed to review the account without such evidence.

If the Board is not satisfied with the evidence respecting any medical account referred to it for review, it may request any police magistrate or clerk of petty sessions to determine the facts of the matter, and for that purpose such police magistrate or clerk of petty sessions shall have the powers, authorities, protection, and jurisdiction of a commission under **"The Official Inquiries Evidence Acts, 1910 to 1929,"* and the Board or, upon appeal, the Tribunal may give such effect as it thinks fit to his findings upon the facts so determined.

* 1 Geo. VI. No. 26 and amending Act, *supra*, pages 748 *et seq.*

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(6.) In the review of any account the Board shall have regard to the following matters :—

- (a) The time occupied in and the nature of the medical or surgical advice, service, attendance, or operation rendered or performed ;
- (b) The distance between the consulting room or residence of the medical practitioner and the place at which he rendered or performed the advice, service, attendance, or operation ;
- (c) The hours of the day or night at which such advice, service, attendance, or operation was rendered or performed ;
- (d) The degree of skill, knowledge, or experience required or given in the rendering or performance of such advice, service, attendance, or operation ;
- (e) Whether the medical practitioner rendered or performed such advice, service, attendance, or operation in the capacity of specialist or general practitioner ;
- (f) Any other matter which to the Board appears relevant.

(7.) The medical practitioner whose account has been reviewed by the Board or the person to be charged with such account may, if dissatisfied with the review, appeal therefrom to the Tribunal.

Such appeal shall be instituted within such time after such review as the rules prescribe, or, if no time is so prescribed, within the time allowed by the Supreme Court for the presentation of bills of costs for taxation.

If the Tribunal dismisses such appeal on the ground that it is frivolous or vexatious it may award such sum by way of costs against the appellant as it shall think fit.

(8.) The party chargeable with a medical account and the medical practitioner concerned shall each be entitled to appear before and to be heard by the Board upon the review of such account or before and by the Tribunal upon any appeal from such review, but no person shall appear or be heard by his counsel, solicitor or agent upon any such review or appeal.

(9.) In this section the term “medical practitioner” includes a specialist.

Contracting-
out
prohibited.

49. Any covenant, agreement, or condition whereby any person agrees to waive or surrender his right to have the account of a medical practitioner or specialist reviewed by the Board, or whereby any person agrees to pay to a medical practitioner or specialist any sum in excess of the amount found upon a review by the Board to be a fair and reasonable charge or remuneration, shall be absolutely void and of none effect whatsoever.

Certificate
of review
of account
as evidence.

50. The certificate of the Board or, as the case may be, the Tribunal shall be admissible as evidence in any proceedings for the recovery of the charge or remuneration to which the account referred to in the certificate relates and shall be conclusive evidence that the amount certified to and no more is legally payable for the professional services as a medical practitioner or specialist to which the account certified to relates.

PART VIII.—
INQUESTS
AND
BURIALS.

PART VIII.—INQUESTS AND BURIALS.

Coroner may
summon
practitioner
on inquest.

51. (1.) When upon the summoning or holding of an inquest touching the death of any person it appears to the coroner that the deceased person was not, at or immediately before his death, attended by a medical practitioner, the coroner may issue a summons for the attendance as a witness at such inquest of some medical practitioner who resides at or near to the place where the inquest is held.

And to
perform
post-mortem
examination.

(2.) The coroner, either in such summons or by an order in writing, may, at any time before the termination of the inquest, direct any medical practitioner to perform a *post-mortem* examination of the body of the deceased person either with or without an analysis of the contents of the stomach or intestines: Provided that, if it appears to the coroner that the death of such person was probably caused partly or entirely by the improper or negligent treatment of any medical practitioner or other person, then such medical practitioner or other person shall not be permitted to perform or assist at any such examination or analysis, but he shall in every such case be permitted to be present thereat.

And in
certain cases
to require
further
evidence or
examination.

(3.) When it appears to the coroner that the cause of death has not been satisfactorily explained by the medical practitioner or practitioners examined in the first instance, he shall forthwith cause some other medical practitioner or practitioners to be summoned to give

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evidence at such inquest, and shall direct him or them to perform a *post-mortem* examination, with or without such analysis as aforesaid, whether such an examination has been previously performed or not.

(4.) When any such summons or order has been served upon any medical practitioner to whom the same was directed, or has been left at his usual residence in sufficient time for him to obey the same, and he does not obey the same, he shall be liable to a penalty of not less than three nor more than twenty pounds, unless at the hearing of the case he shows a good and sufficient excuse for such neglect to the satisfaction of the adjudicating court.

Penalty for disobedience to summons or order.

52. (1.) No burial of a deceased person shall take place until—

No burial to take place until death certificate given.

(a) A medical practitioner has signed and given a certificate of the cause of death of such deceased person; or

(b) A coroner has made and signed an order for such burial.

(2.) No district registrar shall issue any certificate under section twenty-nine of **“The Registration of Births Deaths and Marriages Act of 1855”* before receiving such certificate or order duly signed as aforesaid:

Provided that this section shall not apply where there is no medical practitioner and no coroner residing within a distance of ten miles from the place where such deceased person died. But every burial without a certificate or order as aforesaid must immediately be notified to the nearest police officer by the person who authorises or carries out the burial.

53. In this Part the term “medical practitioner” includes a specialist.

“Medical practitioner to include specialist.”

PART IX.—ANATOMY.

PART IX.—
ANATOMY.

54. Nothing in this Part of this Act contained shall be construed to prohibit any *post-mortem* examination of any body required or directed to be made by any competent authority.

Post-mortem examination.

* 19 Vic. No. 34, *supra*, page 3268.

Establish-
ment of
schools of
anatomy.

55. The Governor in Council may authorise the establishment of schools of anatomy where the study and practice of anatomy may be carried on in connection with any university or school of medicine in such places and upon such conditions as he thinks fit, and may at any time revoke such authority.

Licenses to
practise
anatomy.

56. Upon application for the purpose made by—

- (a) Any graduate or licentiate in medicine or surgery ; or
- (b) Any medical practitioner ; or
- (c) Any legally qualified professor or teacher of anatomy, medicine, surgery, or dentistry ; or
- (d) Any student attending any such school of anatomy,

the Governor in Council may grant such applicant a license to practise anatomy in any such school of anatomy on such conditions, for such period, and subject to revocation in such manner as may be therein expressed.

Inspectors
of schools of
anatomy.

57. (1.) The Governor in Council may appoint inspectors of schools of anatomy, and may direct what schools every such inspector shall superintend, and in what manner he shall perform the duties of his office.

Powers of
inspectors.

(2.) Every such inspector may visit and inspect at any time any school of anatomy of which he is appointed inspector.

Inspectors
to make
quarterly
returns.

(3.) Every such inspector shall make a quarterly return to the Registrar-General of every body that has been removed for anatomical examination to any such school of anatomy, distinguishing the sex and, as far as is known, the name and age of each person whose body was so removed.

Powers of
persons in
custody of
bodies to
permit
anatomical
examina-
tions.

58. Any executor or other person having lawful possession of the body of a deceased person, and not being an undertaker or other person entrusted with the body for the purpose only of interment, who—

- (i.) Has advised the nearest surviving relative of the death of the deceased and of his intention to permit a *post-mortem* or anatomical examination of the body of the deceased ; and

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- (ii.) Has obtained the consent of the relative so advised to such *post-mortem* or, as the case may be, anatomical examination within the period of twelve hours next succeeding the time at which the deceased died,

may permit such body to undergo *post-mortem* or anatomical examination.

In this section the nearest surviving relative shall, according to the order specified, be one of the following classes of relatives from whom it is possible to obtain a consent as aforesaid within the abovementioned period of twelve hours, namely :—

Firstly, the surviving husband or wife ;

Secondly, a surviving parent or child ;

Thirdly, one of the next-of-kin who, if there were no husband or wife, parent, or child surviving, would have been entitled to share in the distribution of the estate of the deceased if he had died intestate.

59. If any person directs, in writing attested by two or more witnesses, that his body be examined anatomically, or nominates any person by this Act authorised to examine bodies anatomically to make such examination, and if, before the burial of the body of such person, such direction or nomination becomes known to the person having legal possession of the body, then such last-mentioned person shall, in the one case, direct such examination to be made or, in the other case, shall request and permit the person nominated as aforesaid to make such examination, unless the surviving husband or wife or a parent or child of the deceased person requires the body to be interred without such examination.

Provision in case of persons directing anatomical examinations after their death.

60. (1.) In no case shall the body of any person be removed for anatomical examination from the place where such person died until after twelve hours from the time of such person's decease and unless—

Conditions to be observed before bodies are removed for anatomical examinations.

- (a) Notice of such intended removal has been given six hours at least before such removal to the nearest inspector or, if no such inspector has been appointed or no such inspector resides within ten miles from the place of death, then to the nearest medical practitioner or police magistrate ; and

(b) A certificate, stating in what manner such person came by his death, has previously to the removal of the body been signed by the medical practitioner who attended such person during the illness whereof he died, or if no such practitioner so attended such person, then by some medical practitioner not concerned in examining the body anatomically, or some coroner or police magistrate, who shall be called in after the death of such person to view his body, and who shall state the manner or cause of death according to the best of his knowledge and belief.

Certificate
to be
delivered.

(2.) In every case of such removal such certificate shall be delivered, together with the body, to the person receiving the body for anatomical examination.

Who may
receive
bodies for
anatomical
examination.

61. Any medical practitioner, or any professor, teacher, or student of anatomy, medicine, or surgery, having a license from the Governor in Council, may receive or possess for anatomical examination or examine anatomically any body if permitted or directed so to do by a person who, at the time of giving such permission or direction, had lawful possession of the body, and had power in pursuance of the provisions of this Act to permit or cause the body to be so examined, and if such person delivers with the body such certificate as aforesaid.

Duties of
such
persons.

62. Every person so receiving a body for anatomical examination shall—

- (a) Demand and receive together with the body a certificate as aforesaid; and
- (b) Within twenty-four hours after he receives the body transmit to the nearest inspector such certificate and also a return stating at what day and hour and from whom the body was received, the date and place of death, the sex, and, as far as is known at the time, the christian name and surname, age, and last place of abode of the person whose body is so received: or, if no such inspector has been appointed, to the nearest medical practitioner or police magistrate; and

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- (c) Enter or cause to be entered the aforesaid particulars relating to such body, and a copy of the certificate he received therewith, in a book to be kept by him for that purpose ; and
- (d) Produce such book whenever required so to do by any inspector under this Act.

63. Every such body removed for the purpose of examination shall before such removal be placed in a decent coffin or shell and be removed therein, and the person removing the same or causing the same to be removed shall make provision that—

Removal and interment of bodies.

- (a) Such body, after undergoing anatomical examination, shall be decently cremated or interred in consecrated ground, or in some public burial ground in use for persons of that religious persuasion to which the person whose body was so removed belonged ; and
- (b) A certificate of the interment or cremation of such body shall be transmitted to the nearest inspector within twelve months after the day on which such body was received, or within such other time as the Governor in Council, by notice in the *Gazette*, may appoint.

64. No person shall receive or possess for anatomical examination or examine anatomically any body except at such places as are authorised for that purpose under this Act.

Anatomical examinations to be only in authorised places.

65. Every person who practises anatomy shall conduct every anatomical examination in an orderly, quiet, and decent manner.

Anatomy to be practised in a decent manner.

66. Any person offending against any provision of this Part of this Act shall be liable to imprisonment for any period not exceeding three months or to a penalty not exceeding fifty pounds, and if he holds a license may be deprived of his license.

Offences.

67. No person holding a license under this Part of this Act shall be liable to any prosecution, penalty, forfeiture, or punishment for receiving or having in his possession for anatomical examination, or for examining anatomically, any body if the possession of such body is in accordance with the provisions of this Act.

Non-liability of licensees.

Limitation
of actions.

68. Any action for anything done in pursuance of this Part of this Act shall be commenced within six months after the cause thereof accrued.

Regulations.

69. In all cases in which no provision or no sufficient provision is, in the opinion of the Governor in Council, made by this Part of this Act, the Governor in Council may make and prescribe all such regulations, either general or applicable to particular cases only, as he thinks fit, and may impose a penalty not exceeding five pounds for any breach thereof.

Governing
authorities
of schools of
anatomy
may make
rules.

70. The governing authority of any authorised school of anatomy may, with the approval of the Governor in Council, make rules for enabling the study and practice of anatomy to be properly carried out and discipline to be properly maintained at such school, and may impose a penalty not exceeding five pounds for any breach thereof.

All such rules shall fix a date on which they shall come into force, and upon the date so fixed and after their publication in the *Gazette* they shall be in force in the school to which they relate.

“Medical
practitioner”
to include
specialist.

71. In this Part the term “medical practitioner” includes a specialist.

PART X.—
LEGAL
PROCEEDINGS.

PART X.—LEGAL PROCEEDINGS.

*Board may Sue.*Board may
sue.

72. The Board may in its own name, by its registrar or any person thereunto authorised in writing under the hand of the president, institute, carry on, prosecute, and defend any action, complaint, information, or proceeding whatsoever.

Every court, judge, justice, or person acting judicially shall take judicial notice of the signature of the president to any such authorisation.

Evidence.

Evidence.

73. (1.) In any proceeding by or on behalf of the Board under this Act it shall not be necessary to prove the appointment of the members, president, or registrar of the Board.

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*Medical Act.*PART X.—
LEGAL
PROCEEDINGS.

(2.) A writing certified by the registrar to be a true copy of or a true extract from any register, book, certificate, notice, list, declaration, statement, document, or writing of any nature whatsoever in the custody of the Board or of any officer of the Board, shall for all purposes be *primâ facie* evidence of the original of which it purports to be a copy or extract, and shall be receivable in evidence to the same extent as the original.

Every court, judge, justice, or person acting judicially shall take judicial notice of the signature of the registrar so certifying any such writing.

(3.) When any notice or other document or writing is required or permitted by this Act to be served by post, then for the purpose of such service by post a letter shall be properly addressed if it is addressed to the last known place of abode of the person to be served.

Sufficiency
of service
by post.

74. (1.) The Register of Medical Practitioners, Queensland, and the Register of Specialists, Queensland, shall each be and be deemed to be a book of such a public nature as to be admissible in evidence on its mere production from the proper custody, and the registrar shall be the person having the proper custody thereof.

Registers
as evidence.

(2.) A certificate by the registrar that any person is registered as a medical practitioner or as a specialist and possesses the qualifications therein named shall be *primâ facie* evidence that the person named in such certificate is registered as a medical practitioner or, according as the certificate may state, as a specialist, and possesses the qualifications so mentioned and no other qualifications whatsoever; and a certificate by the registrar that the person named therein is not registered as a medical practitioner or as a specialist or does not possess certain qualifications shall be *primâ facie* evidence that the person named therein is not registered as a medical practitioner or, according as the certificate may state, as a specialist, or does not possess the qualifications mentioned, as the case may be.

Certificate
by registrar
as evidence.

Any certificate purporting to be a certificate by the registrar as aforesaid shall be admissible in all proceedings whatsoever, and every court, judge, justice, and person acting judicially shall take judicial notice of the signature of the registrar thereto.

*General Penalty.*General
penalty.

75. Every person guilty of any contravention of or failure to comply with any provision of this Act for which no other penalty is provided shall be liable to a penalty not exceeding twenty pounds.

*Recovery of Penalties.*Recovery of
penalties.

76. (1.) Except as otherwise provided in this Act, all penalties and fees imposed or payable under or pursuant to this Act may be recovered in a summary way by complaint under **"The Justices Acts, 1886 to 1932."*

(2.) Notwithstanding anything in any Act to the contrary, where any person is convicted of any offence against this Act the penalty to be imposed in respect of such offence shall not be reduced below any prescribed minimum amount of penalty.

(3.) Except as otherwise provided in this Act, proceedings for an offence against this Act may be instituted at any time within six months after the commission thereof or within four months after the discovery of the commission thereof, whichever is the later period.

Penalties,
&c., to be
paid into
Board's
funds.

77. All penalties and fees recovered or paid under this Act shall be paid to the Board and become part of its funds.

Unqualified
person
prohibited
from
recovering
medical fees.

78. No person other than a medical practitioner shall be entitled to sue, or counterclaim for, set-off, or recover any charge or remuneration for any medical or surgical advice attendance service or operation, or for any medicine which he has both prescribed and supplied :

Provided that nothing in this Act contained shall prejudice or affect the right of a person registered as a pharmaceutical chemist from recovering the price of any medicine or drug compounded, dispensed, or supplied by him in the ordinary course of his business as a pharmaceutical chemist.

*Savings.*Saving of
other rights
and remedies
against
medical
practitioners,
&c.

79. (1.) Nothing in this Act contained shall prejudice, diminish, or affect the jurisdiction, powers, and authorities which are exercisable by any court of competent jurisdiction with respect to medical practitioners.

* 50 Vic. No. 17 and amending Acts, *supra*, pages 1132 *et seq.*

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(2.) Any person who but for this Act would have been entitled to apply to the court to require a medical practitioner to answer allegations contained in an affidavit or to bring any action against any such medical practitioner, whether the matter complained of has been made the subject-matter of an inquiry before the Tribunal and/or the Board or not, shall be entitled so to apply to the court or to bring such action :

Provided, however, that upon any such application or action it shall be lawful for the court to transmit to the Board for reference to the Tribunal in the manner provided by this Act any charges or allegations against the medical practitioner concerned.

SCHEDULE.

Date of Act.	Title of Act.	Extent of Repeal.
16 Geo. V. No. 24	" <i>The Medical Act of 1925</i> " . .	The whole Act.
23 Geo. V. No. 33	" <i>The Medical Act Amendment Act of 1932</i> "	The whole Act.
24 Geo. V. No. 31	" <i>The Medical and Other Acts Amendment Act of 1933</i> "	SS. 4, 5, 6, and 7.
26 Geo. V. No. 5	" <i>The Medical Acts Amendment Act of 1935</i> "	The whole Act.