

Queensland



**HEALTH PRACTITIONER
REGISTRATION BOARDS
(ADMINISTRATION) BILL
1999**

Queensland



HEALTH PRACTITIONER REGISTRATION BOARDS (ADMINISTRATION) BILL 1999

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1999

A BILL

FOR

**An Act to provide for administrative arrangements for the health
practitioner registration boards, and for other purposes**

*Health Practitioner Registration Boards
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The Parliament of Queensland enacts—

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PART 1—PRELIMINARY

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Short title

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1. This Act may be cited as the *Health Practitioner Registration Boards (Administration) Act 1999*.

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Commencement

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2. This Act commences on a day to be fixed by proclamation.

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Main object of Act

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3.(1) The main object of this Act is to establish administrative arrangements to help the health practitioner registration boards to perform their functions.

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(2) The object is primarily achieved by establishing the Office of Health Practitioner Registration Boards.

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Definitions

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4. The dictionary in the schedule defines particular words used in this Act.

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The legislative scheme

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5. This Act is part of a legislative scheme (the “**legislative scheme**”) consisting of this Act, the health practitioner registration Acts, the *Health Practitioners (Professional Standards) Act 1999* and the *Medical Act and Other Acts (Administration) Act 1966*.

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Act binds State	1
6. This Act binds the State.	2
PART 2—OFFICE OF HEALTH PRACTITIONER REGISTRATION BOARDS	3 4
<i>Division 1—Establishment</i>	5
Establishment of office	6
7.(1) The Office of Health Practitioner Registration Boards is established.	7
(2) The office consists of the executive officer and the staff of the office.	8
<i>Division 2—Office’s function</i>	9
Function of office	10
8. The office’s function is to provide the administrative and operational support necessary or convenient to help each board to perform its functions.	11 12
<i>Division 3—Minister’s powers in relation to office</i>	13
Minister’s powers to give directions	14
9.(1) The Minister may give the executive officer a written direction about the administration and operation of the office if the Minister is satisfied it is necessary to give the direction in the public interest.	15 16 17
(2) Without limiting subsection (1), a direction may be to provide reports and information.	18 19
(3) The executive officer must comply with the direction.	20

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Division 4—The executive officer

Appointment of executive officer

10.(1) There is to be an executive officer of the office.

(2) The executive officer is to be appointed by the Governor in Council.

(3) The executive officer is appointed for the term stated in the instrument of appointment, and is eligible for reappointment.

(4) The stated term must not be longer than 5 years.

(5) The *Public Service Act 1996* does not apply to the appointment of the executive officer.

Terms of appointment

11.(1) The executive officer is to be paid the remuneration and allowances decided by the Governor in Council.

(2) The executive officer holds office on terms, not provided for by this Act, decided by the Governor in Council.

Functions of executive officer

12.(1) The executive officer is to control the office and is responsible for its efficient and effective administration and operation.

(2) Without limiting subsection (1), the executive officer is responsible for—

(a) the management of the office including financial management; and

(b) the negotiation of service agreements; and

(c) the implementation of service agreements; and

(d) providing training for members of a board, when first appointed, about their role and the legislative scheme.

(3) The executive officer may also perform other functions given to or

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conferred on the executive officer under another Act, including, for example, any Act in the legislative scheme.

Powers of executive officer

13.(1) The executive officer has power to do anything necessary or convenient for the performance of the office’s function or the executive officer’s functions.

(2) Without limiting subsection (1), the executive officer may—

- (a) enter into a service agreement with a board; and
- (b) engage suitably qualified persons external to the office to help it perform its function including, for example, by providing it with services, information and advice.

(3) The executive officer may also exercise other powers conferred on the executive officer under another Act including, for example, any Act in the legislative scheme.

State and executive officer

14. The executive officer represents the State.

Delegation by executive officer

15.(1) The executive officer may delegate the executive officer’s powers under this Act to an appropriately qualified member of the office’s staff.

(2) However, the executive officer may not delegate the power to enter into a service agreement with a board.

(3) In this section—

“appropriately qualified” includes having the qualifications, experience or standing appropriate to exercise the power.

Example of ‘standing’—

A person’s classification level in the office.

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Resignation

16. The executive officer may resign by signed notice given to the Minister.

Ending of appointment

17.(1) The Governor in Council may end the appointment of the executive officer if the executive officer—

- (a) is convicted of an indictable offence; or
- (b) is guilty of misconduct that could warrant dismissal from the public service if the executive officer were a public service officer; or
- (c) is guilty of neglect of duty or incompetence; or
- (d) becomes incapable of satisfactorily performing the executive officer's functions.

(2) In this section—

“convicted” means found guilty, or having a plea of guilty accepted by a court, whether or not a conviction is recorded.

Preservation of rights

18.(1) This section applies if a public service officer is appointed as the executive officer.

(2) The person retains and is entitled to all rights that have accrued to the person because of employment as a public service officer, or that would accrue in the future to the person because of that employment, as if service as executive officer were a continuation of service as a public service officer.

(3) At the end of the person's term of appointment or on resignation—

- (a) the person is entitled to be employed as a public service officer—
 - (i) at the classification level at which the person would have been employed if the person had continued in employment as a public service officer; and

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- (ii) on the remuneration to which the person would have been entitled if the person had continued in employment as a public service officer; and
- (b) the person's service as executive officer is taken to be service of a like nature in the public service for deciding the person's rights as a public service officer.

Superannuation for executive officer who was previously an officer of the public service

19.(1) This section applies if a public service officer is appointed as the executive officer and immediately before the appointment the public service officer was a member of the State Public Sector Superannuation Scheme under the *Superannuation (State Public Sector) Act 1990*.

(2) The person continues to be eligible to be, and to be, a member of the scheme.

Acting executive officer

20. The Minister may appoint a person to act as executive officer—

- (a) during a vacancy in that office; or
- (b) during any period, or during all periods, when the executive officer is absent from duty or can not, for another reason, perform the functions of that office.

Division 5—Staff of the office

Office staff

21. The staff of the office are to be employed under the *Public Service Act 1996*.

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PART 3—OFFICE’S RELATIONSHIP WITH THE BOARDS

Division 1—Administrative and operational support to the boards

Office to provide administrative and operational support under a service agreement

22. The office must provide administrative and operational support to each board under a service agreement.

Board to use office for administrative and operational support

23.(1) Each board must obtain all administrative and operational support from the office.

(2) Subsection (1) does not limit the following powers of a board—

- (a) power under a health practitioner registration Act or the *Health Practitioners (Professional Standards) Act 1999* to establish a committee to advise the board on anything within the scope of the board’s functions;
- (b) power under the *Health Practitioners (Professional Standards) Act 1999* to appoint an inspector or investigator, or a person to carry out a health assessment;
- (c) power under the *Health Practitioners (Professional Standards) Act 1999* to engage a person to provide expert advice to the board.

(3) Also, subsection (1) does not prevent a member of a board from advising or informing the board about anything.

(4) Further, despite subsection (1), a board may engage a person to help the board in negotiating a service agreement.

Minister may authorise other support

24.(1) However, the Minister may authorise a board to obtain administrative and operational support from another source approved by the

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Minister, if the Minister is satisfied the office can not provide the administrative and operational support necessary to help the board to perform its functions.

(2) The Minister must, before authorising a board to obtain administrative and operational support from another source, consider—

- (a) the board's functions under the relevant health practitioner registration Act, the *Health Practitioners (Professional Standards) Act 1999* and any other Act; and
- (b) the services to be provided to the board as stated in the existing service agreement concerning the board; and
- (c) the extent to which the office can provide the administrative and operational support necessary to help the board to perform its functions.

Minister may give directions to give effect to authorisation

25.(1) To give effect to an authorisation under section 24 the Minister may give the executive officer or the board written directions.

(2) Without limiting subsection (1), the directions may be about the following—

- (a) varying the existing service agreement or entering into a new service agreement;
- (b) adjusting the amounts paid or payable to the office by the board under the existing service agreement.

(3) The executive officer or the board must comply with the directions.

Division 2—Form of service agreements

Agreement to be in writing

26. A service agreement must be in writing.

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What must be included in a service agreement

27.(1) The service agreement must state anything the executive officer and the board consider necessary to ensure the provision of the administrative and operational support necessary to help the board to perform its functions.

(2) Without limiting subsection (1), the service agreement must include the following—

- (a) details of the services to be provided by the office;
- (b) the amount payable to the office by the board for the provision of the services;
- (c) how the amount payable is to be calculated;
- (d) how the amount payable is to be paid, for example, by instalments, and the amount and timing of the instalments;
- (e) an arrangement by which the executive officer reports to the board about the office's performance under the agreement;
- (f) an arrangement by which the executive officer accounts to the board for moneys collected, managed and disbursed for the board by the office;
- (g) the term of the agreement, which must not be more than 3 years;
- (h) how the agreement may be varied.

Division 3—Negotiation of subsequent service agreements

Negotiation of subsequent service agreements

28.(1) The executive officer and each board must, at least 3 months before the existing service agreement between the executive officer and the board is to end, enter into negotiations for a subsequent service agreement.¹

(2) The executive officer and the board must endeavour to reach

¹ Provisions about initial service agreements are contained in part 5.

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agreement on the subsequent service agreement as soon as practicable and
in any event at least 1 month before the existing service agreement is to end.

Special procedures for subsequent service agreements

29.(1) This section applies if the subsequent service agreement has not
been entered into between the executive officer and the board at least
1 month before the existing service agreement is to end.

(2) The executive officer must immediately inform the Minister of the
circumstances mentioned in subsection (1).

(3) The Minister may give the executive officer or the board written
directions to take particular steps in relation to the subsequent service
agreement.

(4) Without limiting subsection (3), a direction may be about the
subsequent service agreement's terms.

(5) The executive officer or the board must immediately comply with the
directions.

PART 4—MISCELLANEOUS

Financial administration

30.(1) For the *Financial Administration and Audit Act 1977* the office is
a statutory body within the meaning of that Act.

(2) For the application of that Act to the office as a statutory body—

- (a) anything done in the name of, or on behalf of, the office by the
executive officer is taken to have been done by the office; and
- (b) the executive officer must ensure the office complies with that
Act; and
- (c) the executive officer is taken to be the chairperson of the office;
and

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- (d) section 46G(4) of that Act is taken to require the executive officer to consider the annual financial statements and the auditor-general's report mentioned in the subsection as soon as practicable after they are received by the office; and 1
2
3
4
- (e) section 46H of that Act is taken to require the executive officer to consider any observations, suggestions or comments given to the executive officer under section 93(4) of that Act as soon as practicable after the executive officer receives them. 5
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7
8

Declaration that office is a statutory body 9

31.(1) The office is a statutory body for the *Statutory Bodies Financial Arrangements Act 1982*. 10
11

(2) For the application of that Act to the office as a statutory body— 12

- (a) anything done in the name of, or on behalf of, the office by the executive officer is taken to have been done by the office; and 13
14
- (b) the executive officer must ensure the office complies with that Act. 15
16

Annual reports to include ministerial directions 17

32. The office's annual report for a financial year prepared under the *Financial Administration and Audit Act 1977*, must include copies of all ministerial directions given to the executive officer under section 9(1), 25(1), 29(3) or 38(3)² of this Act during the financial year. 18
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21

Review of Act 22

33.(1) The Minister must ensure the operation of this Act is reviewed. 23

(2) The review must start within 3 years after the start of the initial service agreements mentioned in part 5. 24
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² Section 9 (Minister's powers to give directions), 25 (Minister may give directions to give effect to authorisation), 29 (Special procedures for subsequent service agreements) or 38 (Special procedures for initial service agreements)

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(3) The Minister must prepare, and table in the Legislative Assembly, a report on the outcome of the review within 4 years after the start of the initial service agreements.

Regulation-making power

34. The Governor in Council may make regulations under this Act.

PART 5—TRANSITIONAL PROVISIONS

Definitions

35. In this part—

“**existing board**” means a board established under an existing health practitioner registration Act.

“**existing health practitioner registration Act**” means any 1 of the following Acts—

- *Chiropractors and Osteopaths Act 1979*
- *Dental Act 1971*
- *Dental Technicians and Dental Prosthetists Act 1991*
- *Medical Act 1939*
- *Occupational Therapists Act 1979*
- *Optometrists Act 1974*
- *Pharmacy Act 1976*
- *Physiotherapists Act 1964*
- *Podiatrists Act 1969*
- *Psychologists Act 1977*
- *Speech Pathologists Act 1979.*

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“initial service agreement”, for an existing board, means the first service agreement entered into between the executive officer and the board.	1 2
Existing board may enter into service agreements	3
36.(1) Despite anything in an existing health practitioner registration Act, it is part of an existing board’s functions under that Act to enter into service agreements.	4 5 6
(2) The board has all the powers necessary or convenient for subsection (1).	7 8
Negotiation of initial service agreement	9
37. The executive officer and each existing board must enter into negotiations for an initial service agreement as soon as practicable after the commencement of this section.	10 11 12
Special procedures for initial service agreements	13
38.(1) This section applies if an initial service agreement has not been entered into between the executive officer and an existing board within 4 months after the commencement of section 37.	14 15 16
(2) The executive officer must immediately inform the Minister of the circumstances mentioned in subsection (1).	17 18
(3) The Minister may give the executive officer or the board written directions to take particular steps in relation to the agreement.	19 20
(4) Without limiting subsection (3), a direction may be about the agreement’s terms.	21 22
(5) The executive officer or the existing board must immediately comply with the directions.	23 24
Start of initial service agreements	25
39.(1) The initial service agreements for all the existing boards must start at the same time.	26 27

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- (2) The agreements start— 1
- (a) if the Minister, for that purpose, fixes a day by gazette notice that 2
is earlier than 6 months after the commencement of 3
section 37—on the day fixed by the Minister; or 4
- (b) otherwise—6 months after that commencement. 5
- Support by office to existing boards during transition period** 6
- 40.(1)** This section applies despite section 22.³ 7
- (2) Also, this section applies only for the transition period. 8
- (3) During the transition period the office must provide to each existing 9
board— 10
- (a) administrative and operational support of the type that, before the 11
commencement of section 10,⁴ was being supplied to the board 12
by the unit of the department known as the Office of the Health 13
Professional Registration Boards; and 14
- (b) other administrative and operational support necessary or 15
convenient to help the board to perform its functions under the 16
Health Practitioners (Professional Standards) Act 1999. 17
- (4) In this section— 18
- “transition period”** means the period from the commencement of 19
section 10 until the initial service agreements start. 20

³ Section 22 (Office to provide administrative and operational support under a service agreement)

⁴ Section 10 (Appointment of executive officer)

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**PART 6—AMENDMENT OF MEDICAL ACT AND
OTHER ACTS (ADMINISTRATION) ACT 1966**

Act amended in pt 6

41. This part amends the *Medical Act and Other Acts (Administration) Act 1966*.

Replacement of s 4A (Appointment of registrar)

42. Section 4A—

omit, insert—

‘Registrar of boards

‘4A.(1) The executive officer under the *Health Practitioner Registration Boards (Administration) Act 1999* is the registrar of each board mentioned in section 4(1) and is taken to be appointed as registrar under the Act establishing the board.

‘(2) A reference in an Act mentioned in section 4(1) to the registrar is taken to be a reference to the registrar appointed by subsection (1).

‘(3) An Act mentioned in section 4(1) has effect subject to subsections (1) and (2).

‘Delegation of registrar’s powers

‘5.(1) The registrar may delegate the registrar’s powers under an Act mentioned in section 4(1) or under this Act to an appropriately qualified member of the staff of the Office of Health Practitioner Registration Boards.

‘(2) In this section—

“appropriately qualified” includes having the qualifications, experience or standing appropriate to exercise the power.

Example of ‘standing’—

A person’s classification level in the office.’.

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Omission of s 8 (Deputy registrar of board to have powers etc. of registrar)

43. Section 8—

omit.

Amendment of s 11B (Annual report)

44. Section 11B—

insert—

‘(2A) The report must also include copies of all ministerial directions given to the board during the financial year under the *Health Practitioner Registration Boards (Administration) Act 1999*, section 25(1), 29(3) or 38(3).⁵’.

Insertion of new s 19

45. After section 18—

insert—

‘Transitional provisions for Health Practitioner Registration Boards (Administration) Act 1999

‘19.(1) The public service officer holding office, immediately before the commencement of the *Health Practitioner Registration Boards (Administration) Act 1999*, section 42,⁶ as registrar of a board mentioned in section 4(1) ceases holding the office on that commencement.

‘(2) The person’s status as a public service officer is not affected merely because of subsection (1).

‘(3) For the transition period—

(a) section 4(1) applies as if—

⁵ *Health Practitioner Registration Boards (Administration) Act 1999*, section 25 (Minister may give directions to give effect to authorisation), 29 (Special procedures for subsequent service agreements) or 38 (Special procedures for initial service agreements)

⁶ Section 42 (Replacement of s 4A (Appointment of registrar))

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(i)	a reference to the registrar and other officers of a board included a reference to the executive officer and staff of the Office of Health Practitioner Registration Boards; and	1 2 3
(ii)	a reference to the administration of the Acts mentioned in the subsection included a reference to the provision of administrative and operational support under the <i>Health Practitioner Registration Boards (Administration) Act 1999</i> , section 40; ⁷ and	4 5 6 7 8
(b)	the <i>Medical Act and Other Acts (Administration) Regulation 1994</i> , section 2, ⁸ applies as if—	9 10
(i)	a reference to the registrar and other officers of a board included a reference to the executive officer and staff of the Office of Health Practitioner Registration Boards; and	11 12 13
(ii)	a reference to the administrative costs of a board included a reference to the costs of providing administrative and operational support under the <i>Health Practitioner Registration Boards (Administration) Act 1999</i> , section 40.	14 15 16 17
‘(4)	When the initial service agreements mentioned in the <i>Health Practitioner Registration Boards (Administration) Act 1999</i> , section 39, start ⁹ —	18 19 20
(a)	the power to make a regulation under section 4(1) ceases; and	21
(b)	the <i>Medical Act and Other Acts (Administration) Regulation 1994</i> is repealed.	22 23
‘(5)	In this section—	24
“transition period”	means the period from the commencement of the <i>Health Practitioner Registration Boards (Administration) Act 1999</i> ,	25 26

⁷ Section 40 (Support by office to existing boards during transition period)

⁸ *Medical Act and Other Acts (Administration) Regulation 1994*, section 2 (Contributions to be made by certain boards to consolidated fund—Act s 4)

⁹ The *Health Practitioner Registration Boards (Administration) Act 1999*, section 39, provides for when the agreements start.

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section 10,¹⁰ until the initial service agreements mentioned in section 39 of that Act start.’.

1
2

**PART 7—AMENDMENT OF PUBLIC SERVICE ACT
1996**

3
4

Act amended in pt 7

5

46. This part amends the *Public Service Act 1996*.

6

Amendment of sch 1 (Public service offices and their heads)

7

47. Schedule 1—

8

insert—

9

‘7A Office of Health Practitioner Executive officer’.
 Registration Boards

¹⁰ Section 10 (Appointment of executive officer)

SCHEDULE	1
DICTIONARY	2
section 4	3
“administrative and operational support” , in relation to a board, includes the following—	4 5
(a) maintaining the board’s register;	6
(b) collecting moneys payable to the board and managing and disbursing moneys held for the board;	7 8
(c) providing and maintaining accommodation and equipment for use by the board;	9 10
(d) providing secretariat services to the board;	11
(e) providing advice to the board about the operation of the legislative scheme;	12 13
(f) helping the board to meet its statutory financial obligations including, for example, under the <i>Financial Administration and Audit Act 1977</i> ;	14 15 16
(g) exercising powers conferred on or delegated to the executive officer or staff of the office under the <i>Health Practitioners (Professional Standards) Act 1999</i> , a health practitioner registration Act or another Act.	17 18 19 20
“board” means a health practitioner registration board.	21
“executive officer” means the executive officer of the office.	22
“existing board” , for part 5, see section 35.	23
“existing health practitioner registration Act” , for part 5, see section 35.	24
“existing service agreement” , for the executive officer and a board, means the current service agreement between the executive officer and the board.	25 26 27

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SCHEDULE (continued)

“health practitioner registration Act” means any 1 of the following Acts—	1 2
• <i>Chiropractors and Osteopaths Act 1979</i>	3
• <i>Dental Act 1971</i>	4
• <i>Dental Technicians and Dental Prosthetists Act 1991</i>	5
• <i>Medical Act 1939</i>	6
• <i>Occupational Therapists Act 1979</i>	7
• <i>Optometrists Act 1974</i>	8
• <i>Pharmacy Act 1976</i>	9
• <i>Physiotherapists Act 1964</i>	10
• <i>Podiatrists Act 1969</i>	11
• <i>Psychologists Act 1977</i>	12
• <i>Speech Pathologists Act 1979.</i>	13
“health practitioner registration board” means a board established under a health practitioner registration Act.	14 15
“initial service agreement” , for part 5, see section 35.	16
“legislative scheme” see section 5.	17
“office” means the Office of Health Practitioner Registration Boards.	18
“service agreement” means an agreement made under this Act between the executive officer and a board for the provision of administrative and operational support by the office to the board.	19 20 21 22