

Version No. 013
Medical Practice Act 1994

Act No. 23/1994

Version incorporating amendments as at 1 July 1998

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The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. *Purposes*

The main purposes of this Act are—

- (a) to protect the public by providing for the registration of medical practitioners, investigations into the professional conduct and fitness to practise of registered medical practitioners; and
- (b) to regulate the advertising of medical services; and
- (c) to establish the Medical Practitioners Board of Victoria and the Medical Practitioners Board Fund of Victoria; and
- (d) to repeal the **Medical Practitioners Act 1970** and to make consequential amendments to other Acts; and
- (e) to provide for other related matters.

2. *Commencement*

- (1) Section 1 and this section come into operation on the day on which this Act receives the Royal Assent.
- (2) Subject to sub-section (3), the remaining provisions of this Act come into operation on a day or days to be proclaimed.

(3) If a provision referred to in sub-section (2) does not come into operation within the period of 12 months beginning on, and including, the day on which this Act receives the Royal Assent, it comes into operation on the first day after the end of that period.

S. 3 amended by No. 46/1998 s. 7(Sch. 1) (ILA s. 39B(1)).

3. Definitions

(1) In this Act—

S. 3(1) def. of "Administrative Appeals Tribunal" repealed by No. 52/1998 s. 311(Sch. 1 item 59.1).

* * * * *

"**alcoholic**" has the same meaning as in the **Alcoholics and Drug-dependent Persons Act 1968**;

"**Board**" means the Medical Practitioners Board of Victoria established under Part 6;

"**drug-dependent person**" has the same meaning as in the **Alcoholics and Drug-dependent Persons Act 1968**;

"**Fund**" means the Medical Practitioners Board Fund established under Part 7;

"**Health Services Commissioner**" means the Health Services Commissioner within the meaning of the **Health Services (Conciliation and Review) Act 1987**;

S. 3(1) def. of "hospital" amended by No. 98/1995 s. 65(Sch. 1 item 6).

"**hospital**" means—

- (a) a private, public or denominational hospital within the meaning of the **Health Services Act 1988**; or

- (b) an approved mental health service within the meaning of the **Mental Health Act 1986**;

"lawyer" means a person admitted to practise as a barrister and solicitor of the Supreme Court;

"medicine" includes surgery;

"register" means the register of medical practitioners kept under Part 2;

"registered medical practitioner" means a person registered under Part 2, whether or not the registration of that person is general, specific or provisional;

"Secretary" means—

- (a) in relation to any act to which section 6(3) of the **Health Act 1958** applies, the body corporate established under section 6 of that Act; and
- (b) in any other case, the Department Head, within the meaning of the **Public Sector Management and Employment Act 1998**, to the Department of Human Services;

S. 3(1) def. of "Secretary" amended by No. 46/1998 s. 7(Sch. 1).

"unprofessional conduct" means all or any of the following—

- (a) professional conduct which is of a lesser standard than that which the public might reasonably expect of a registered medical practitioner; or
- (b) professional conduct which is of a lesser standard than that which might reasonably be expected of a medical practitioner by her or his peers; or
- (c) professional misconduct; or

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- (d) infamous conduct in a professional respect; or
- (e) providing a person with health services of a kind that is excessive, unnecessary or not reasonably required for that person's well-being; or
- (f) influencing or attempting to influence the conduct of a medical practice in such a way that patient care may be compromised; or
- (g) the failure to act as a medical practitioner when required under an Act or regulations to do so; or
- (h) a finding of guilt of—
 - (i) an indictable offence in Victoria, or an equivalent offence in another jurisdiction; or
 - (ii) an offence where the practitioner's ability to continue to practise is likely to be affected because of the finding of guilt or where it is not in the public interest to allow the practitioner to continue to practise because of the finding of guilt; or
 - (iii) an offence under this Act or the regulations; or
 - (iv) an offence as a medical practitioner under any other Act or regulations.

S. 3(2)
inserted by
No. 46/1998
s. 7(Sch. 1).

- (2) If under the **Public Sector Management and Employment Act 1998** the name of the Department of Human Services is changed, the reference in the definition of "Secretary" in subsection (1) to that Department must, from the date
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s. 3

when the name is changed, be treated as a
reference to the Department by its new name.

PART 2—REGISTRATION

Division 1—Procedure for obtaining registration

4. *Mutual Recognition*

The **Mutual Recognition (Victoria) Act 1993**
applies to the occupation of medical practitioner.

5. *Application for registration*

- (1) An application for registration as a medical practitioner may be made to the Board.
- (2) An application must be—
 - (a) in writing in the prescribed form and accompanied by evidence of the qualifications which the applicant claims entitle her or him to the type of registration applied for; and
 - (b) accompanied by the fee determined by the Board.
- (3) The Board—
 - (a) may require the applicant to provide further information or material in respect of the application; and
 - (b) may require that the information in the application be verified by a declaration under section 107 of the **Evidence Act 1958**; and
 - (c) may require proof of identity of the person making the application.

6. *Qualifications for general registration*

A person is qualified for general registration as a
medical practitioner—

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- (a) if that person is a graduate of a medical school accredited by the Australian Medical Council who has successfully completed—
- (i) a 12 month internship in a position approved by the Board or an aggregate of 12 months in positions approved by the Board; or
 - (ii) a period of internship undertaken outside the State which, in the opinion of the Board, is substantially equivalent to the period of internship required under sub-paragraph (i); or
 - (iii) a period of internship undertaken partially outside and partially within the State which, in the opinion of the Board, is substantially equivalent to the period of internship required under sub-paragraph (i); or
- (b) in the case of a person to whom paragraph (a) does not apply, if that person holds a qualification in medicine and has successfully completed an examination set by the Australian Medical Council for the purpose of qualifying persons for registration as medical practitioners and has successfully completed—
- (i) 12 months supervised training in the State; or
 - (ii) a period of supervised training undertaken outside the State which, in the opinion of the Board, is substantially equivalent to the period of supervised training required under sub-paragraph (i); or

- (iii) a period of supervised training undertaken partially outside and partially within the State which, in the opinion of the Board, is substantially equivalent to the period of supervised training required under sub-paragraph (i).

7. General registration

- (1) The Board must grant general registration as a medical practitioner to an applicant, if—
 - (a) the applicant is qualified for registration under section 6; and
 - (b) there are no grounds under sub-section (2) under which the Board may refuse to grant registration to the applicant; and
 - (c) the circumstances are such that sections 8 and 9 do not apply; and
 - (d) the applicant has paid the fee determined by the Board under section 5(2)(b).
- (2) The Board may refuse to grant registration to an applicant on any one or more of the following grounds—
 - (a) that the character of the applicant is such that it would not be in the public interest to allow the applicant to practise as a registered medical practitioner;
 - (b) that the applicant is unfit to practise as a registered medical practitioner because she or he is an alcoholic or drug-dependent person;
 - (c) that the applicant has been found guilty of an indictable offence in Victoria or an equivalent offence in another jurisdiction; or

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- (d) that the applicant has been found guilty of an offence where the ability of the applicant to practise is likely to be affected because of the finding of guilt or where it is not in the public interest to allow the applicant to practise because of the finding of guilt;
 - (e) that the applicant has previously been registered under this Act or any corresponding previous enactment and during the course of that registration has had proceedings under Part 3 of this Act or similar proceedings under the previous enactment brought against her or him and those proceedings have never been finalised;
 - (f) that, in the opinion of the Board, the applicant is unfit to be registered because she or he has a physical or mental impairment which significantly impairs her or his ability to practise as a registered medical practitioner;
 - (g) that the applicant's competency in speaking or communicating in English is not sufficient for that person to practise as a registered medical practitioner;
 - (h) that the applicant has previously held a right to practise as a medical practitioner in another country, being the equivalent of registration as a medical practitioner under this Act, and that right has been cancelled or suspended and not restored because of conduct which, if committed within Victoria would entitle the Board to suspend or cancel registration.
- (3) A grant of registration under this section is subject to any conditions, limitations or restrictions that the Board thinks fit.
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- (4) The Board may, upon application by the registered medical practitioner, amend, vary or revoke any condition, limitation or restriction imposed under sub-section (3)

8. *Specific registration*

- (1) The Board may grant or refuse to grant specific registration as a medical practitioner to an applicant in the following circumstances—
- (a) where an applicant holds qualifications in medicine which do not qualify that applicant for general registration—
 - (i) to enable that applicant to undertake supervised study or training; or
 - (ii) to enable that applicant to fill a medical teaching or research position; or
 - (b) to enable an applicant to undertake training, where that applicant is a candidate for an Australian Medical Council examination; or
 - (c) to enable an applicant to practise within a medical speciality where that applicant has specialist qualifications in a field of medicine obtained outside Australia and recognised by the relevant specialist college within Australia; or
 - (d) to enable an applicant from another country to practise in Victoria where that applicant has exchanged practice with a registered medical practitioner for a limited period and with the prior permission of the relevant specialist college within Australia; or
 - (e) where an applicant holds qualifications in medicine which do not qualify that applicant for general registration, but the Board is of the opinion that, in order to meet an identified need for a medical practitioner, it
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is necessary for a person having qualifications in the nature of the applicant's to provide medical services.

- (2) A grant of specific registration under this section is subject to any conditions, limitations or restrictions as to the period of registration or otherwise imposed by the Board.
- (3) The Board may of its own motion, or upon application by the registered medical practitioner, amend, vary or revoke any condition, limitation or restriction imposed under sub-section (2).

9. Provisional registration

- (1) The Board may grant, or refuse to grant, provisional registration to a person, to enable that person—
 - (a) to undertake or complete the period of internship required by the Board under section 6(a), if that person has graduated as required under that paragraph; or
 - (b) to undertake or complete any period of supervised training required under section 6(b).
- (2) The provisional registration of a person under this section—
 - (a) continues in force for the period specified by the Board; and
 - (b) is subject to any conditions, limitations or restrictions imposed by the Board.
- (3) The Board may, upon application by the registered medical practitioner, amend, vary or revoke any condition, limitation or restriction on the provisional registration of a person.

10. Entitlement of applicant to make submissions

If the Board is proposing to refuse an application for registration or to impose conditions, limitations or restrictions on the registration of an applicant, the Board must not do so until—

- (a) it has given the applicant notice of this proposal; and
- (b) it has given the applicant an opportunity to make submissions to the Board about the proposal.

11. Notification of outcome of application

- (1) Upon determining an application for registration under this Part, the Board must notify the applicant as to whether or not registration has been granted to the applicant.
- (2) A notice under sub-section (1) must include the following information—
 - (a) if the registration has been granted—
 - (i) the type of registration granted; and
 - (ii) whether or not any conditions, limitations or restrictions have been imposed on the registration and, if so, the reasons for imposing the conditions, limitations or restrictions; or
 - (b) if the registration has not been granted—
 - (i) the reasons why it has not been granted; and
 - (ii) a statement that the applicant has a right to obtain a review of the decision not to grant registration.

12. Duration and renewal of registration

The registration of a medical practitioner which is not specific or provisional or renewal of such registration continues in force until the 30 September next following the grant or renewal of registration.

13. *Application for renewal of and refusal to renew registration*

- (1) An application for renewal of registration which is not specific or provisional—
 - (a) must be made to the Board before the existing registration expires; and
 - (b) must be accompanied by the fee determined by the Board.
- (2) If a person does not apply for renewal of registration before the end of the existing registration period, the Board may renew that person's registration if application is made within 3 months after the end of the registration period and if the applicant pays an additional renewal fee determined by the Board which must not be more than 50% of the original fee.
- (3) For a period of 3 months after a person's registration has expired without being renewed that person is to be deemed to be registered, and if, at the end of that period, that person has not renewed her or his registration, the Board must remove that person's name from the register.
- (4) The Board may refuse to renew the registration of an applicant under this Part on any ground on which the Board might refuse to grant registration.

14. *Restoration of name to the register*

If a person whose name has been removed from the register under section 13(3)—

- (a) applies to the Board within 2 years from the date of that removal to have her or his name restored to the register; and
- (b) pays to the Board the fee fixed by the Board for that purpose within that period—

the Board may restore that person's name to the register.

15. *Effect of suspension of registration*

For the purposes of this Act, a medical practitioner whose registration is suspended is deemed to be not registered for the period of that suspension.

16. *Registration obtained by fraud*

- (1) If the Board believes that the registration of a medical practitioner has been obtained by fraud or misrepresentation or that the qualifications upon which the practitioner relied for registration have been withdrawn the Board must conduct a hearing into the matter.
 - (2) The Board must give notice of the time and place of the hearing to the practitioner.
 - (3) The provisions applying to the conduct of a formal hearing under Part 3 apply to a hearing under this section as if a hearing under this section were a formal hearing.
 - (4) If, at the end of the hearing, the Board determines that the registration of the practitioner has been obtained by fraud or misrepresentation or that the qualifications upon which the practitioner has relied for registration have been withdrawn, the Board must cancel the registration of the practitioner.
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Division 2—The Register

17. *The Register*

- (1) The Board must cause to be kept a register of all medical practitioners to whom the Board has granted registration under this Act.
- (2) The register is to be called the Register of Medical Practitioners.
- (3) The following particulars must be included on the register against the name of the medical practitioner to whom they apply—
 - (a) any current suspension of the registration of the medical practitioner;
 - (b) any current condition, limitation or restriction imposed on the registration of the medical practitioner;
 - (c) the prescribed information.
- (4) The register may be inspected at the office of the Board by any person during ordinary office hours without charge.
- (5) A person may obtain a copy of or an extract from the register on payment of the fee determined by the Board.
- (6) A registered medical practitioner's private address must not appear on that part of the register which is open to the public for inspection, unless the practitioner so authorises.

18. *Certificates*

- (1) Upon—
 - (a) granting registration to a person under this Part; or
 - (b) renewing the registration of a person under this Part—

the Board must issue a certificate of registration to that person.

- (2) The following particulars must be included on a certificate of registration—
 - (a) any condition, limitation or restriction imposed on the registration of the practitioner; and
 - (b) the prescribed information.
- (3) If a practitioner's registration under this Part has been suspended or cancelled, that practitioner must return her or his certificate of registration to the Board.

Penalty: 20 penalty units.

19. *Use of certificate as evidence*

A certificate purporting to be signed by the President or any two members of the Board to the effect that—

- (a) a medical practitioner is or is not or was or was not, at any specified date, registered; or
- (b) that any disciplinary or other action is or is not or was or was not, at any specified date, being taken against that practitioner—

is evidence, and, in the absence of evidence to the contrary, is proof of the matters stated in it.

20. *Requirement to notify the Board of change of address*

A registered medical practitioner must notify the Board of any change of the address of the practitioner which appears on the register within 14 days of that change having been made.

Penalty: 10 penalty units.

21. Notification of death by Registrar of Births, Deaths and Marriages

- (1) Upon registering the death of any person appearing from the records of the Registrar of Births, Deaths and Marriages to be a registered medical practitioner, the Registrar must immediately give notice of the death by post to the Board.
- (2) Upon receiving a notice under sub-section (1), the Board must cause the name of the practitioner to be removed from the register.

S. 21(1)
amended by
No. 43/1996
s. 65 (Sch.
item 9.1).

**PART 3—INVESTIGATIONS INTO REGISTERED MEDICAL
PRACTITIONERS**

**Division 1—Preliminary investigations into professional
conduct**

**22. *Complaints about the professional conduct of
practitioners***

A person may make a complaint about a
registered medical practitioner to the Board.

**23. *When complaints about professional conduct are to be
investigated by Health Services Commissioner***

- (1) If the Board receives a complaint about a registered medical practitioner, and the complaint is of a kind which may be made under the **Health Services (Conciliation and Review) Act 1987**, the Board must notify the Health Services Commissioner and give a copy of the complaint to the Health Services Commissioner as soon as possible after it has received the complaint.
 - (2) The Board, in consultation with the Health Services Commissioner, must determine whether or not the complaint is to be dealt with by the Commissioner or the Board.
 - (3) The **Health Services (Conciliation and Review) Act 1987** applies to a complaint made under this Part which is to be dealt with by the Health Services Commissioner as if the complaint were made under section 16 of that Act.
 - (4) The Board must not deal further with a complaint made under this Part that is to be dealt with by the Health Services Commissioner unless the Health Services Commissioner refers the matter back to the Board under section 19(6) of the **Health Services (Conciliation and Review) Act 1987**.
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- (5) If a complaint has been referred to and is being dealt with by the Health Services Commissioner, the Commissioner must advise the Board, when the matter is completed, of the outcome of the matter.

24. *When complaints about professional conduct are to be investigated by the Board*

- (1) The Board must investigate a complaint if the complaint concerns the professional conduct of a registered medical practitioner and if the complaint is not to be dealt with by the Health Services Commissioner under section 23 or the Board has not determined the complaint to be frivolous or vexatious.
- (2) In order to determine whether or not it is necessary to conduct a formal or informal hearing into a complaint, the Board must conduct a preliminary investigation into the complaint.
- (3) The Board may, in writing, delegate to—
- (a) an officer of the Board; or
 - (b) a legal practitioner or investigator retained by the Board; or
 - (c) a sub-committee of the Board consisting of not more than 3 members of the Board—
- its power to conduct a preliminary investigation into a complaint, other than its power to make determinations upon a preliminary investigation.

S. 24(3)(b)
amended by
No. 35/1996
s. 453(Sch. 1
item 57).

25. *Outcome of preliminary investigation*

- (1) Upon completing a preliminary investigation, the person conducting the investigation may make one of the following recommendations—
- (a) that the investigation into the matter should not proceed further; or

(b) that an informal or formal hearing should be held into the matter.

- (2) The Board must determine whether or not to act on the recommendations of the person conducting the preliminary investigation.

26. Board may institute a hearing into professional conduct

The Board may, of its own motion, determine to conduct a formal or informal hearing into the professional conduct of a registered medical practitioner without conducting a preliminary investigation.

27. Suspension of registration upon commencement of investigation

- (1) The Board, upon making a determination—
- (a) to conduct a preliminary investigation into a complaint made to the Board about the professional conduct of a registered medical practitioner; or
 - (b) to conduct a formal or informal hearing into the professional conduct of a registered medical practitioner without preliminary investigation—

may suspend the registration of the medical practitioner until any investigation and any hearing into the matter is completed if the Board is of the opinion that it is necessary to do so because there is a serious risk that the health and safety of the public will be endangered.

- (2) If the Board has suspended the registration of a medical practitioner under sub-section (1), it must—
- (a) immediately notify the practitioner of that suspension; and
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- (b) ensure that the matter is investigated as soon as possible after that suspension.

Division 2—Preliminary investigation into the health of registered medical practitioners

28. Commencement of preliminary investigation

If the Board believes the ability of a medical practitioner to practise medicine may be affected because—

- (a) of the physical or mental health of the practitioner; or
- (b) the practitioner has an incapacity; or
- (c) the practitioner is an alcoholic or drug-dependent person—

the Board may appoint one of its members to conduct a preliminary investigation into the matter.

29. Notification to practitioner

- (1) The member of the Board appointed to investigate the matter must give notice of the preliminary investigation to the medical practitioner.
- (2) A notice under sub-section (1) must—
 - (a) be in writing; and
 - (b) be sent by registered post, as soon as possible after the Board's decision has been made; and
 - (c) advise the practitioner of the nature of the matter to be investigated; and
 - (d) ask the practitioner to advise the Board as to whether or not she or he will agree to undergo a medical examination within 28 days of receiving the notice; and

- (e) advise the practitioner of the procedures that can be taken under this Part.

30. Medical examination

- (1) If the practitioner agrees to undergo a medical examination within 28 days, the practitioner must be examined by another registered medical practitioner who is not a member of the Board and who is agreed upon by the Board and the practitioner.
- (2) If the Board and the practitioner are unable to agree upon a practitioner to conduct the examination, the Secretary must appoint a practitioner to perform the examination.
- (3) The Board must pay for the examination.

31. Report of examination

- (1) The examining practitioner must give a report of her or his examination to the member of the Board appointed to investigate the matter, and, not more than 7 days later, to the practitioner being investigated.
 - (2) The person appointed to investigate the matter must discuss the report with the practitioner, and, in the case of an adverse finding in the report, the possible ways of dealing with that finding.
 - (3) After discussing the report with the practitioner, the person appointed to investigate the matter must report to the Board.
 - (4) Despite sub-section (1), if the report contains information of a medical or psychiatric nature concerning the practitioner, and it appears to the person appointed to conduct the investigation that the disclosure of that information to the practitioner might be prejudicial to the physical or mental health or well being of the practitioner, the investigator may decide not to give that
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information to the practitioner but to give it instead to another medical practitioner nominated by that practitioner.

- (5) Before acting under sub-section (4), the investigator must report to the Board and, if the investigator is not a medical practitioner and the Board is of the opinion that it is necessary for the investigation of the matter to be continued by a medical practitioner, the Board may appoint a medical practitioner to continue the investigation.

32. Outcome of preliminary investigation

- (1) If after considering the reports given under section 31, the Board decides that further action should be taken, the Board must ask the practitioner whether or not she or he is prepared to agree to—
- (a) alter the way in which she or he practises medicine; or
 - (b) the imposition of conditions, limitations or restrictions on her or his registration; or
 - (c) the suspension of her or his registration for the period of time specified by the Board.
- (2) The Board may take any action that is necessary to implement an agreement under sub-section (1).

33. Referral to formal hearing

If a registered medical practitioner who is the subject of a preliminary investigation under this Division—

- (a) does not agree to undergo a medical examination or does not abide by an agreement to undergo a medical examination; or
- (b) does not reach an agreement with the Board under section 32 or does not abide by an

agreement reached with the Board under section 32—

the Board may refer the matter to a formal hearing.

34. *Request for conditions, limitations or restrictions*

- (1) A registered medical practitioner who believes that her or his ability to practise medicine is affected because—
 - (a) of her or his physical or mental health; or
 - (b) she or he has an incapacity; or
 - (c) she or he is an alcoholic or drug-dependent person—

may ask the Board to impose a condition, limitation or restriction on her or his practice.

- (2) If the Board and the practitioner agree upon the condition, limitation or restriction to be imposed, the Board may impose it.
- (3) If the practitioner and the Board do not agree upon the condition, limitation or restriction to be imposed, the Board must refer the matter to a preliminary investigation.

35. *Revocation of suspension of registration or condition, limitation or restriction imposed on registration*

The Board may revoke a condition, limitation or restriction imposed on the registration of a registered medical practitioner or the suspension of a registered medical practitioner's registration, if the practitioner satisfies the Board that her or his ability to practise medicine is no longer affected.

36. *Immediate suspension of registration*

- (1) If the Board has referred a matter to a formal hearing under this Division, the Board may
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suspend the registration of the practitioner until the hearing is completed, if the Board is of the opinion that the ability of the practitioner to practise medicine is affected to such an extent that to allow the practitioner to continue to practise would pose a serious risk that the health and safety of the public will be endangered.

- (2) If the Board has suspended the registration of a medical practitioner under sub-section (1), it must—
- (a) immediately notify the practitioner of that suspension; and
 - (b) ensure that the matter is investigated as soon as possible after that suspension.

37. Reporting of ill-health of health practitioners

- (1) If a registered medical practitioner—
- (a) is treating a person whom she or he believes to be a registered health practitioner; and
 - (b) forms the opinion that the person is suffering from an illness or condition which—
 - (i) has seriously impaired or may seriously impair that health practitioner's ability to practise as a registered health practitioner of that class; and
 - (ii) may result in the public being put at risk—

the medical practitioner must so notify the body responsible for the registration of that health practitioner.

- (2) In this section and in section 38, "**registered health practitioner**" means a person who belongs to any one or more of the following classes of people—

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- (a) medical practitioners registered under the **Medical Practice Act 1994**;
 - (b) nurses registered under the **Nurses Act 1993**;
 - (c) dentists registered under the **Dentists Act 1972**;
 - (d) pharmacists registered under the **Pharmacists Act 1974**;
 - (e) physiotherapists registered under the **Physiotherapists Act 1978**;
 - (f) a chiropractor registered under the **Chiropractors Registration Act 1996**;
 - (fa) an osteopath registered under the **Osteopaths Registration Act 1996**;
 - (g) medical imaging technologists, radiation therapy technologists and nuclear medicine technologists registered under section 108AL of the **Health Act 1958**.
- (3) A medical practitioner is not subject to any civil or criminal liability for making a report under this section, if the report is made in good faith.

S. 37(2)(f) substituted by No. 63/1996 s. 98(Sch. item 2).

S. 37(2)(fa) inserted by No. 75/1996 s. 96.

38. Immunity from liability

A registered health practitioner in a working or treating relationship with a medical practitioner is not subject to any civil liability for reporting to the Board that she or he believes a registered medical practitioner to be incapacitated, if the report is made in good faith.

Division 3—Formal and informal hearings

39. *Establishment and notification of an informal hearing*

If the Board has determined that an informal hearing be held into the professional conduct of a registered medical practitioner under section 25 or 26, the Board must—

- (a) appoint a panel to hold the hearing; and
- (b) fix a time and place for the hearing to be held; and
- (c) by registered post, serve a notice on the practitioner which complies with section 41; and
- (d) serve notice on any complainant by registered post under section 57(4)(a) and (b).

40. *Constitution of a panel for an informal hearing*

- (1) A panel appointed under section 39 is to consist of not more than 3 persons—
 - (a) who, subject to sub-section (2), are to be members of the Board; and
 - (b) of whom, at least 1 is to be a registered medical practitioner.
- (2) If—
 - (a) the Board is unable to appoint a panel because there are not enough members available to sit on it; or
 - (b) the Board is of the opinion that a person with special expertise is required for the hearing—

the Governor in Council may appoint persons who are not members of the Board to fill the vacant positions on the panel.

- (3) A person who has undertaken a preliminary investigation of the matter is not entitled to be a member of the panel.

41. *Notice of an informal hearing*

A notice of an informal hearing under section 39 must—

- (a) state the nature of the hearing and the allegations made against the medical practitioner; and
- (b) give the time and place of the hearing; and
- (c) state that the practitioner may choose to have the matter determined by a formal hearing and state the differences between a formal and informal hearing; and
- (d) state that there is no right to legal representation at the hearing, but that the practitioner is entitled to be present and to make submissions and to be accompanied by another person, that the hearing is not open to the public and list the possible findings the panel can make or orders the panel can give.

42. *Conduct of an informal hearing*

At an informal hearing—

- (a) the panel must hear and determine the matter before it; and
 - (b) the practitioner who is the subject of the hearing is entitled to be present, to make submissions and to be accompanied by another person but is not entitled to be represented; and
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- (c) the proceedings of the hearing must not be open to the public.

43. Findings and determinations of an informal hearing

- (1) After considering all the submissions made to the hearing the panel may find either—
- (a) that the practitioner has, whether by act or omission, engaged in unprofessional conduct which is not of a serious nature; or
 - (b) that the practitioner has not engaged in unprofessional conduct.
- (2) If the panel finds that the practitioner has, whether by act or omission, engaged in unprofessional conduct which is not of a serious nature, the panel may make one or more of the following determinations—
- (a) that the practitioner undergo counselling;
 - (b) that the practitioner be cautioned;
 - (c) that the practitioner be reprimanded.

44. Change of informal hearing to formal hearing during course of hearing

If, before the end of the hearing—

- (a) the practitioner who is the subject of the hearing fails to attend the hearing without good cause; or
- (b) the practitioner requests that a formal hearing be held; or
- (c) the panel is of the opinion that a formal hearing should be held—

the panel must abandon the informal hearing and refer the matter to a formal hearing.

45. Request for formal hearing upon completion of informal hearing

Upon the completion of an informal hearing, the practitioner who was the subject of the hearing may request that a formal hearing be held to review any findings and determinations of the informal hearing.

46. Establishment and notification of formal hearing

If—

- (a) the Board has determined that a formal hearing be held under section 25 or 26 or has referred a matter to a formal hearing under section 33; or
- (b) a practitioner has requested a formal hearing under section 45; or
- (c) a panel has referred a matter to a formal hearing under section 44—

the Board must—

- (d) appoint a panel to hold the hearing; and
- (e) fix a time and place for the hearing to be conducted; and
- (f) serve a notice on the practitioner by registered post which complies with section 48; and
- (g) serve a notice on any complainant by registered post under section 57(4)(a) and (b).

47. Constitution of a hearing panel for a formal hearing

- (1) A panel appointed under section 46 must consist of not less than 3 persons—
 - (a) who, subject to sub-section (2), are to be members of the Board; and
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(b) of whom 1 is to be a lawyer and at least 1 is to be a registered medical practitioner.

(2) If—

- (a) the Board is unable to appoint a panel because there are not enough members available to sit on it; or
- (b) the Board is of the opinion that a person with special expertise is required for the hearing—

the Governor in Council may appoint persons who are not members of the Board to fill the vacant positions on the panel.

(3) The following people are not entitled to be members of a panel for a formal hearing—

- (a) a person who has undertaken a preliminary investigation of the matter which is the subject of the hearing;
- (b) a person who has been a member of a panel which held an informal hearing into the matter.

48. *Notice of a formal hearing*

A notice of a formal hearing under section 46 must—

- (a) state the nature of the hearing and the allegations made against the practitioner; and
- (b) give the time and place of the hearing; and
- (c) state that there is a right to make submissions and to be represented, that the hearing is open to the public, list the possible findings the panel can make and state that there is a right to apply for review of the panel's findings.

49. *Conduct of a formal hearing*

At a formal hearing—

- (a) the hearing panel must hear and determine the matter before it; and
- (b) the practitioner who is the subject of the hearing is entitled to be present, to make submissions and to be represented; and
- (c) if the hearing arises out of a complaint, the identity of the complainant is not to be published or broadcast and the complainant—
 - (i) in the case of a proceeding which has not been closed under paragraph (d), is entitled to be present; and
 - (ii) if not called as a witness, may make submissions with the permission of the Board; and
- (d) the proceedings are to be open to the public unless the panel determines that the proceedings should be closed because the hearing is taking evidence of intimate, personal or financial matters and, if the panel has determined that the proceedings are closed, the panel may determine that the identity of any witness giving evidence in the proceedings is not to be published or broadcast.

50. *Findings and determinations of a formal hearing into conduct*

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- (1) After considering all the submissions made to a formal hearing into the professional conduct of a registered medical practitioner the panel may find that—
- (a) the practitioner has, whether by act or omission, engaged in unprofessional conduct of a serious nature; or
 - (b) the practitioner has, whether by act or omission, engaged in unprofessional conduct which is not of a serious nature; or
 - (c) the practitioner has not engaged in unprofessional conduct.
- (2) If the panel finds that the practitioner has, whether by act or omission, engaged in unprofessional conduct of a serious nature, the panel may make one or more of the following determinations—
- (a) require the practitioner to undergo counselling;
 - (b) caution the practitioner;
 - (c) reprimand the practitioner;
 - (d) require the practitioner to undertake further education of the kind stated in the determination and to complete it within the period specified in the determination;
 - (e) impose conditions, limitations or restrictions on the registration of the practitioner;
 - (f) impose a fine on the practitioner of not more than 20 penalty units;
 - (g) suspend the registration of the practitioner for the period specified in the determination;
or
 - (h) cancel the registration of the practitioner.

- (3) If the panel finds under sub-section (1)(b) that the practitioner has, whether by act or omission, engaged in unprofessional conduct which is not of a serious nature, the panel may make any determination which a panel at an informal hearing is able to make upon making such a finding.
- (4) The panel must not impose a fine where the conduct which is the subject of the finding has resulted in a fine being imposed by another tribunal or court of law.
- (5) If the panel has made an order under sub-section (2)(a) or (d) and the practitioner has not complied with the order within the time specified in the order, the Board may suspend the practitioner's registration until the order is complied with.

51. Findings and determinations of a formal hearing into ability to practise

- (1) After considering all the submissions made to a formal hearing into the ability to practise of a registered medical practitioner, the panel may find that—
 - (a) the ability of the practitioner to practise is affected because—
 - (i) of the physical or mental health of the practitioner; or
 - (ii) the practitioner has an incapacity; or
 - (iii) the practitioner is an alcoholic or drug-dependent person; or
 - (b) the ability of the practitioner is not affected.
- (2) If the panel makes a finding under sub-section (1)(a), the panel may make one or more of the following determinations—

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- (a) to impose conditions, limitations or restrictions on the registration of the practitioner;
 - (b) to suspend the registration of the medical practitioner for the period and subject to the conditions, limitations and restrictions, if any, specified in the determination.

Division 4—General provisions relating to investigations

52. Procedure at formal and informal hearings

At a formal or informal hearing—

- (a) subject to this Part, the procedure of a panel is in its discretion; and
- (b) the proceedings must be conducted with as little formality and technicality as the requirements of this Act and the proper consideration of the matter permit; and
- (c) a panel is not bound by rules of evidence but may inform itself in any way it thinks fit; and
- (d) a panel is bound by the rules of natural justice.

53. Powers of panel conducting a formal hearing

Sections 14, 15, 16 and 21A of the **Evidence Act 1958** apply to a panel in the conduct of a formal hearing as if it were a Board or the Chairman of a Board appointed by the Governor in Council.

54. Determinations

- (1) A determination made by a panel on a hearing comes into operation on its making or at any later time stated in the determination.

- (2) A determination of a panel is to have effect as if it were a determination of the Board.
- (3) If a fine is imposed by a panel it may be recovered by the Board as a debt due to the Board.

55. *Removal of suspension, condition, limitation or restriction*

- (1) If the Board has suspended the registration of a medical practitioner until the completion of a hearing, and at the completion of the hearing the panel determines that the suspension should be removed, the Board must remove the suspension.
- (2) If a condition, limitation or restriction has been imposed on the registration of a medical practitioner, and, at the completion of a hearing, the panel determines that the condition, limitation or restriction should be removed, the Board must remove that condition, limitation or restriction.

56. *Reasons for determinations of panel or Board*

- (1) A panel must give reasons for a determination made under this Part, to the medical practitioner who was the subject of the determination within 28 days of the making of the determination.
- (2) A person affected by a determination of a panel may apply to the panel for the reasons for that determination.
- (3) An application under sub-section (2) must be made within 45 days of the making of the determination and reasons must be given to the applicant within 45 days of receiving the application.

57. *Notifications*

- (1) If a determination has been made by a panel—
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- (a) imposing conditions, limitations or restrictions on the registration of a medical practitioner; or
 - (b) suspending the registration of a practitioner; or
 - (c) cancelling the registration of a practitioner—
the Board must give notice of the determination—
 - (d) in the Government Gazette; and
 - (e) to the medical registration authorities in all other States or Territories of the Commonwealth and in New Zealand; and
 - (f) to the Australian Medical Council; and
 - (g) to the Health Services Commissioner; and
 - (h) where the medical practitioner is an employee, to her or his employer; and
 - (i) to any Commonwealth body responsible for the funding of health or medical services; and
 - (j) if the Board has received a request for information about the person in respect of whom the determination has been made from a medical practitioner registration authority outside Australia, that authority.
- (2) Notice under sub-section (1) must be given as soon as possible after the determination has been made.
 - (3) No action for defamation lies against the Board or its members for giving a notice under this section.
 - (4) If a complaint has been made to the Board, the Board must notify the complainant—
 - (a) of whether or not a formal or informal hearing is to be conducted into the matter
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and, if so, of the time and place of the hearing and, in the case of a formal hearing, of the fact that the complainant's identity is not to be published or broadcast; and

- (b) in the case of a formal or informal hearing, of whether or not the complainant has any right to make submissions at the hearing; and
- (c) of the findings and determinations of any hearing arising from that complaint and the reasons for those findings and determinations, within 28 days of their having been made.

58. *Offence to disclose information identifying complainant*

A person must not publish or broadcast or cause to be published or broadcast any report of a formal hearing under this Part which contains information which would enable—

- (a) the complainant to be identified; or
- (b) if the panel has made a determination prohibiting the publication or broadcast of the identity of a witness, that witness to be identified—

unless the complainant or witness has, before publication or broadcast, consented to this.

Penalty: 50 penalty units for a natural person or 100 penalty units for a body corporate.

59. *Terms and conditions of appointment of panel members*

- (1) A member of a panel, whether appointed by the Board or the Governor in Council, is appointed on the terms and conditions determined by the Board for that member.

Medical Practice Act 1994

Act No. 23/1994

s. 59

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- (2) A member of a panel, other than a member who is an employee of the public service within the meaning of the **Public Sector Management and Employment Act 1998**, is entitled to receive the fees that are fixed from time to time by the Governor in Council for members of panels.
- (3) A member of a panel is entitled to receive the allowances that are fixed from time to time by the Governor in Council.
- (4) In fixing fees under sub-section (2), the Governor in Council may fix different fees for different classes of cases.

S. 59(2)
amended by
No. 46/1998
s. 7(Sch. 1).

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S. 59(5)
repealed by
No. 46/1998
s. 7(Sch. 1).

Pt 4 (Heading)
amended by
No. 52/1998
s. 311(Sch. 1
item 59.2).

**PART 4—REVIEW BY VICTORIAN CIVIL AND
ADMINISTRATIVE TRIBUNAL**

**60. *Review by Victorian Civil and Administrative
Tribunal***

S. 60(1)
amended by
No. 52/1998
s. 311(Sch. 1
item 59.3(a)).

- (1) A person whose interests are affected by the relevant decision, finding or determination may apply to the Victorian Civil and Administrative Tribunal for review of—
 - (a) a decision to refuse a person's application for registration or renewal of registration; or
 - (b) a decision to impose conditions, limitations or restrictions on a person's registration; or
 - (c) a decision of the Board to suspend the registration of a person, if the Board has not instituted an investigation into the professional conduct or ability to practise of that person within a reasonable time of having suspended that registration; or
 - (d) a finding or determination made at a formal hearing under Part 3.

S. 60(2)
amended by
No. 52/1998
s. 311(Sch. 1
item 59.3(b)).

- (2) The application must be made within 28 days of the date on which the Board gives notice of the decision, finding or determination to the person concerned.

S. 60(3)
substituted by
No. 52/1998
s. 311(Sch. 1
item 59.4).

- (3) If a finding has been made at a formal hearing under Part 3 but no final determination has been made at that hearing, an application for review under this section can only be made with the leave of the Tribunal.

S. 61
amended by
No. 52/1998
s. 311(Sch. 1
item
59.5(a)(b)).

61. *Notification*

If a decision or determination has been reviewed by the Victorian Civil and Administrative Tribunal, the Board must notify any person who

was notified of the original decision or
determination of any change to that decision or
determination by the Tribunal.

PART 5—OFFENCES

62. *Claims by persons as to registration*

- (1) A person who is not a registered medical practitioner must not—
- (a) take or use the title of registered medical practitioner or any other title calculated to induce a belief that the person is registered under this Act; or
 - (b) claim to be registered under this Act or hold herself or himself out as being registered under this Act; or
 - (c) carry out any act which is required to be carried out by a registered medical practitioner by or under an Act; or
 - (d) claim to be qualified to practise as a medical practitioner.

Penalty: 100 penalty units.

- (2) A registered medical practitioner whose registration is specific or provisional must not—
- (a) take or use any title calculated to induce a belief that the practitioner's registration is not specific or provisional (as the case requires); or
 - (b) claim to have or hold herself or himself out as having general registration.

Penalty: 50 penalty units.

- (3) A registered medical practitioner whose registration is subject to a condition, limitation or restriction must not—
- (a) take or use any title calculated to induce a belief that the practitioner's registration is

not subject to a condition, limitation or restriction; or

- (b) claim to have or hold herself or himself out as having a registration which is not subject to any condition, limitation or restriction.

Penalty: 50 penalty units.

- (4) A person must not hold out another person as being registered under this Act, if the person knows or ought reasonably to know that the other person is not so registered.

Penalty: 100 penalty units.

63. *Fraud, forgery etc.*

A person must not—

- (a) fraudulently or by false representation or declaration (either orally or in writing) obtain registration under the Act; or
- (b) fraudulently or by false representation (either orally or in writing) procure any person to be registered under the Act; or
- (c) forge, counterfeit or alter any certificate of registration under this Act or any degree, diploma or other evidence of qualifications for registration under this Act; or
- (d) aid in the commission of an offence under paragraph (a), (b) or (c).

Penalty: 100 penalty units or imprisonment for a period of 2 years or both.

64. *Advertising*

- (1) A person must not advertise a medical practice or medical or surgical services in a manner which—
- (a) is or is intended to be false, misleading or deceptive; or

- (b) offers a discount, gift or other inducement to attract patients to a medical practitioner or medical practice unless the advertisement also sets out the terms and conditions of that offer; or
- (c) refers to uses or quotes from testimonials or purported testimonials; or
- (d) unfavourably contrasts medical or surgical services provided by a medical practitioner or medical practice with services provided by another medical practitioner or medical practice.

Penalty: For a natural person 50 penalty units.
For a body corporate 100 penalty units.

- (2) If a body corporate contravenes sub-section (1), any person who is concerned in or takes part in the management of that body corporate who was, in any way, by act or omission, directly or indirectly, knowingly concerned in or party to the commission of the offence also commits an offence under sub-section (1) and is liable for the penalty applicable to a natural person for that offence.
 - (3) A person who, in good faith, publishes or prints an advertisement which contravenes sub-section (1) on behalf of another person, is not guilty of an offence under that sub-section.
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PART 6—ADMINISTRATION

Division 1—The Board

65. *Establishment of Board*

- (1) There is established a Board to be called the Medical Practitioners Board of Victoria.
- (2) The Board—
 - (a) is a body corporate with perpetual succession; and
 - (b) has a common seal; and
 - (c) may sue and be sued in its corporate name; and
 - (d) may acquire, hold and dispose of real and personal property; and
 - (e) may do and suffer all acts and things that a body corporate may, by law, do and suffer.
- (3) The common seal must be kept as directed by the Board and must not be used except as authorised by the Board.
- (4) All courts must take judicial notice of the seal of the Board on a document and, until the contrary is proved, must presume that the document was properly sealed.

66. *Powers, functions and consultation requirements*

- (1) The Board has the following functions—
 - (a) to register persons who comply with the requirements of this Act as to registration so that they may practise medicine in Victoria;
 - (b) to approve positions in public hospitals for the purposes of intern training;

- (c) to investigate the professional conduct or ability to practise of registered medical practitioners and impose sanctions where necessary;
 - (d) to provide information to the Australian Medical Council about registered persons or persons who have sought to become registered in Victoria;
 - (e) to advise the Minister on any matters relating to its functions;
 - (f) to administer this Act;
 - (g) when so requested by the Minister, give to the Minister any information reasonably required by the Minister;
 - (h) any other functions conferred on the Board by this Act.
- (2) The Board has all the powers necessary to enable it to perform its functions.
- (3) The Board must consult with the Minister and have regard to the Minister's advice in carrying out its functions and exercising its powers.

67. *Membership of the Board*

- (1) The Board consists of 12 members nominated by the Minister and appointed by the Governor in Council.
- (2) Of the persons appointed to the Board—
- (a) 9 must be registered medical practitioners; and
 - (b) 1 must be a lawyer; and
 - (c) 2 must be persons who are not medical practitioners.

68. *Terms of office*

Medical Practice Act 1994

Act No. 23/1994

- (1) A member of the Board holds office for not more than 3 years from the date of her or his appointment.
- (2) A member of the Board is eligible for reappointment.
- (3) The **Public Sector Management and Employment Act 1998** (except in accordance with Part 7 of that Act) does not apply to a member in respect of the office of member.

S. 68(3)
amended by
No. 46/1998
s. 7(Sch. 1).

69. *Resignation and removal*

- (1) A member of the Board ceases to be a member if she or he is absent, without leave first being granted by the Board, from 3 consecutive meetings of which reasonable notice has been given to that member, either personally or by post.
- (2) A member of the Board may resign the office of member by writing signed by the member and addressed to the Governor in Council.
- (3) The Governor in Council may at any time remove a member of the Board from office.
- (4) If a member of the Board dies, resigns or is removed from office, the Governor in Council may, in accordance with this Act, on the recommendation of the Minister, fill the vacant office.
- (5) A member appointed under sub-section (4) holds office for the rest of the term of appointment of the member whose place she or he fills.

70. *President and Deputy President*

- (1) The Governor in Council may appoint members of the Board who are registered medical practitioners to be President and Deputy President of the Board.

- (2) A person appointed to an office under sub-section (1) holds office for the term specified in her or his instrument of appointment and is eligible for reappointment.
- (3) A person appointed to an office under sub-section (1) may resign that office by writing signed by the person and addressed to the Governor in Council.
- (4) The Governor in Council may at any time remove a person appointed under sub-section (1) from office.
- (5) A person appointed to an office under sub-section (1) ceases to hold that office on ceasing to be a member of the Board.

71. *Acting member*

- (1) If a member of the Board is unable to perform the duties or functions of the office, the Governor in Council may appoint a person qualified to be appointed as that member to act as the member during the period of inability.
- (2) The Governor in Council—
 - (a) subject to this Act, may determine the terms and conditions of appointment of an acting member; and
 - (b) may at any time terminate the appointment.
- (3) While the appointment of an acting member remains in force, the acting member has and may exercise all the powers and perform all the duties and functions of the member.

72. *Payment of members*

- (1) A member or acting member of the Board, other than a member who is an employee of the public service within the meaning of the **Public Sector Management and Employment Act 1998**, is entitled to receive the fees that are fixed from time

S. 72(1)
amended by
No. 46/1998
s. 7(Sch. 1).

to time by the Governor in Council for that member.

- (2) Each member or acting member of the Board is entitled to receive the allowances that are fixed from time to time by the Governor in Council.

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S. 72(3)
repealed by
No. 46/1998
s. 7(Sch. 1).

73. Procedure of Board

- (1) The President or, in the absence of the President, the Deputy President, must preside at a meeting of the Board at which she or he is present.
- (2) If neither the President nor Deputy President are present at a meeting the members present may elect a member to preside at the meeting.
- (3) The person presiding at a meeting has a deliberative vote and a second or casting vote.
- (4) A majority of the members of the Board currently holding office constitutes a quorum.
- (5) Subject to this Act the Board may regulate its own proceedings.

74. Effect of vacancy or defect

An act or decision of the Board is not invalid only because—

- (a) of a vacancy in its membership; or
- (b) of a defect or irregularity in the appointment of any of its members; or
- (c) in the case of an acting member, the occasion for that member so acting had not arisen or had ceased.

75. Member's interests

- (1) A member who has a pecuniary or other interest in any matter in which the Board is concerned must—
 - (a) if the member is present at a meeting of the Board at which the matter is to be considered, disclose the nature of the interest immediately before the consideration of that matter; or
 - (b) if the member is aware that the matter is to be considered at a meeting of the Board at which the member does not intend to be present, disclose the nature of the interest to the President or Deputy President of the Board before the meeting is held.
- (2) The member—
 - (a) may take part in the discussion in the meeting; and
 - (b) must leave the meeting while any vote is taken on a question relating to the matter.

76. Immunity

- (1) A member of the Board or person responsible for keeping the register is not personally liable for anything done or omitted to be done in good faith and without negligence—
 - (a) in the exercise of a power or the discharge of a duty under this Act; or
 - (b) in the reasonable belief that the act or omission was in the exercise of a power or the discharge of a duty under this Act.
- (2) Any liability resulting from an act or omission that would but for sub-section (1), attach to a member of the Board or the person responsible for keeping the register, attaches instead to the Board.

77. Staff

The Board may employ a person to be responsible for maintaining the register and any other persons that are necessary for the purposes of administering this Act.

78. *Delegation*

The Board may, in writing, delegate to—

- (a) a member of the Board; or
- (b) the person responsible for maintaining the register or any other member of the staff of the Board—

its powers and functions under this Act, other than—

- (c) the power to refuse to grant or refuse to renew registration; or
- (d) the power to impose or to amend, vary or revoke conditions, limitations or restrictions on registration; or
- (e) the power to conduct any hearing or to make any determination under Part 2 or Part 3; or
- (f) this power to delegate.

79. *Appointment to Australian Medical Council*

The Minister may appoint a member of the Board who is a registered medical practitioner to be a member of the Australian Medical Council representing Victoria.

Division 2—Intern Training Accreditation Committee

80. *Establishment of committee*

There is established a committee to be called the "Intern Training Accreditation Committee".

81. Powers and functions of the committee

- (1) The committee has the following functions—
 - (a) to advise the Board on the length and extent of intern training, the supervision required for such training and the facilities which are necessary to be provided for such training in hospitals or other institutions;
 - (b) to receive and consider applications for the approval of positions in hospitals or other institutions for the purposes of intern training and make recommendations to the Board with respect to those applications;
 - (c) to periodically review approved positions and make recommendations as to whether or not the approval of any position should continue and if so whether or not any terms or conditions should attach to the approval.
- (2) The committee has all the powers necessary to enable it to perform its functions.

82. Membership of the committee

- (1) The committee consists of 9 members appointed by the Governor in Council.
- (2) Of the persons appointed to the committee—
 - (a) 1 is to be appointed on the nomination of the Board from the members of the Board; and
 - (b) 1 is to be appointed on the nomination of the Minister from a panel of 3 names submitted by the Faculty of Medicine, Dentistry and Health Sciences of the University of Melbourne; and

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- (c) 1 is to be appointed on the nomination of the Minister from a panel of 3 names submitted by the Faculty of Medicine of Monash University; and
 - (d) 1 is to be appointed on the nomination of the Minister from a panel of 3 names submitted by the Victorian Faculty of the Royal Australian College of General Practitioners; and
 - (e) 1 is to be appointed on the nomination of the Minister from a panel of 3 names submitted by the Victorian Hospitals Association; and
 - (f) 2 are to be appointed on the nomination of the Minister from a panel of 6 names submitted by the Association of Medical Directors of Victorian Hospitals; and
 - (g) 1 is to be appointed on the nomination of the Minister from a panel of 3 names submitted by the Victorian Medical Post-Graduate Foundation; and
 - (h) 1 is to be a registered medical practitioner appointed on the nomination of the Minister after consultation with the Secretary.
- (3) If a person or body authorised to submit a panel of names to the Minister under sub-section (2) does not do so within one month of receiving a request in writing to do so, the Governor in Council may appoint a suitable person nominated by the Minister to fill the vacancy.

83. *Terms of office*

- (1) A member of the committee holds office for 3 years from the date of her or his appointment.
- (2) A member of the committee is eligible for re-appointment.

S. 83(3)
substituted by
No. 46/1998
s. 7(Sch. 1).

- (3) A member is, in respect of that appointment as member, not subject to the **Public Sector Management and Employment Act 1998**.

84. Resignation and removal

- (1) A member of the committee may resign the office of member by writing signed by the member and addressed to the Governor in Council.
- (2) The Governor in Council may at any time remove a member of the committee from office.
- (3) If a member of the committee dies, resigns or is removed from office, the Governor in Council may, in accordance with this Act, on the recommendation of the Minister, fill the vacant office.
- (4) A member appointed under sub-section (3) holds office for the rest of the term of appointment of the member whose place she or he fills.

85. Chairperson

The person appointed to the committee under section 82(2)(a) is to be the chairperson of the committee.

86. Payment of members

S. 86(1)
amended by
No. 46/1998
s. 7(Sch. 1).

- (1) A member of the committee, other than a member who is an employee of the public service within the meaning of the **Public Sector Management and Employment Act 1998**, is entitled to receive the fees that are fixed from time to time by the Governor in Council for that member.
- (2) Each member of the committee is entitled to receive the allowances that are fixed from time to time by the Governor in Council.

S. 86(3)
repealed by
No. 46/1998
s. 7(Sch. 1).

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87. *Procedure of committee*

- (1) The chairperson must preside at a meeting of the committee at which she or he is present.
- (2) If the chairperson is not present at a meeting the members present may elect a member to preside at the meeting.
- (3) The person presiding at a meeting has a deliberative vote and a second or casting vote.
- (4) A majority of the members of the committee currently holding office constitutes a quorum.
- (5) Subject to this Act the committee may regulate its own proceedings.

88. *Effect of vacancy or defect*

An act or decision of the committee is not invalid only because—

- (a) of a vacancy in its membership; or
 - (b) of a defect or irregularity in the appointment of any of its members.
-

PART 7—REPORTING AND FINANCIAL PROVISIONS

89. *Medical Practitioners Board Fund*

- (1) The Board must establish and keep a Medical Practitioners Board Fund.
- (2) All fees, fines and penalties paid or recovered by the Board under this Act must be paid into the Fund.
- (3) The Board must pay any other money received by it into the Fund, including income from the investments of the Fund.
- (4) Out of the Fund, the Board must pay—
 - (a) the expenses incurred by it in carrying out its functions, powers and duties; and
 - (b) any other expenses incurred in the administration of this Act; and
 - (c) any payments to be made to members of the Board under this Act and any payments to be made to other persons under this Act; and
 - (d) any other payments recommended by the Board and approved by the Minister.

90. *Investment powers*

The Board may invest money credited to the Fund that it does not immediately require—

- (a) in any manner in which money may be invested under the **Trustee Act 1958**; or
- (b) in any other manner that the Minister approves.

S. 90(a)
amended by
No. 104/1995
s. 6(Sch. 1
item 16).

91. Repayment of advances

- | | |
|---|---|
| (1) The Board must pay into the public account the amounts that the Minister administering the section 14 of the Financial Management Act 1994 , in consultation with the Treasurer, determines are required to repay advances from the Public Account for the establishment and operation of the Board, including costs incurred before the establishment of the Board to ensure that, when established, it can operate in a fully effective way. | S. 91(1)
amended by
No. 43/1995
s. 22(a)(b). |
| (2) Payments under sub-section (1) must be made in accordance with any other terms and conditions from time to time determined by the Minister administering the section 14 of the Financial Management Act 1994 in consultation with the Treasurer. | S. 91(2)
amended by
No. 43/1995
s. 22(b). |
| (3) The Board must, as and when directed to do so by the Minister administering the section 14 of the Financial Management Act 1994 , provide a plan for the repayment of advances referred to in sub-section (1). | S. 91(3)
amended by
No. 43/1995
s. 22(b). |
| (4) The Board must, at least once in each period of 6 months after the commencement of this section, and at any other time that the Minister administering the section 14 of the Financial Management Act 1994 directs it to do so, report to that Minister in writing on its progress in making payments under sub-section (1). | S. 91(4)
amended by
No. 43/1995
s. 22(b). |

**PART 8—ENFORCEMENT AND SUPPLEMENTARY
POWERS**

92. *Proceedings for offences*

- (1) The person responsible for maintaining the register or any other officer authorised by the Board may take proceedings under this Act in the name of the Board.
- (2) Any prosecution instituted in the name of the Board must, in the absence of evidence to the contrary, be taken to have been instituted by the Board.

93. *Powers of entry with warrant*

- (1) A person appointed for that purpose by the Board may apply to a magistrate for the issue of a search warrant if that person believes, on reasonable grounds—
 - (a) that there is or has been a contravention of this Act or the regulations on any premises; or
 - (b) that entry into or onto any premises is necessary for the purpose of investigating a complaint made under this Act which, if substantiated, may provide grounds for the suspension or cancellation of registration of a registered medical practitioner.
- (2) A magistrate to whom such an application is made, if satisfied by evidence on oath or by affidavit that there are reasonable grounds for doing so, may issue in accordance with the **Magistrates' Court Act 1989** a search warrant.

S. 93(2)
amended by
No. 49/1995
s. 4.

94. *Examination of intern training records*

A member of the Intern Training Accreditation Committee or a registered medical practitioner

authorised in writing by that committee may, at any reasonable time, for the purposes of approving or reviewing the approval of positions for intern training in a hospital or other institution—

- (a) enter and inspect the hospital or institution; and
- (b) inspect and examine any records relating to the positions or facilities for the positions which are kept on the premises and copy or take extracts from those records; and
- (c) require the Director of Medical Services or any person performing the functions of a Director of Medical Services to provide any information relating to the positions or proposed positions.

95. Power of Board to approve positions for intern training purposes

- (1) The Board may approve a position in a hospital or institution for intern training.
- (2) The Board may vary or revoke any approval given under this section and may impose conditions, limitations or restrictions on any such approval.
- (3) The Board must have regard to the advice of the Intern Training Accreditation Committee when—
 - (a) approving a position under this section; or
 - (b) varying or revoking an approval under this section; or
 - (c) imposing conditions, limitations or restrictions on an approval under this section.

- (4) The Board must not revoke approval of a position under this section while a person is undertaking intern training in that position.

96. Powers of Board in relation to fees

- (1) In the case of any fee which the Board is empowered to fix under this Act—
- (a) the Board must fix the fee for a period of 12 months and may amend or vary the fee at the end of that period; and
 - (b) the Board may fix a different fee for a different case and may allow for the reduction, waiver or refund, in whole or in part, of any fee; and
 - (c) the Board must publish any fee it has fixed in the Government Gazette.
- (2) In fixing fees under this Act the Board is entitled to ensure that the amount of money collected in fees under this Act is sufficient to cover the cost to the Board of administering this Act.
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PART 9—REGULATIONS

97. *Supreme Court—Limitation of jurisdiction*

It is the intention of this section to alter or vary section 85 of the **Constitution Act 1975** to the extent necessary to prevent the bringing before the Supreme Court of actions of the kind referred to in sections 37(3), 38, 57(3) or 76.

98. *Regulations*

- (1) The Governor in Council may make regulations for or with respect to—
 - (a) registration, including periods of registration, and renewal of registration, and applications for registration, and renewal of registration;
 - (b) the register, including particulars to be noted on the register and the manner of keeping the register;
 - (c) forms for the purposes of this Act;
 - (d) time limits for the purposes of this Act;
 - (e) penalties, not exceeding 10 penalty units, for breaches of the regulations;
 - (f) any matter or thing required or permitted to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) The regulations—
 - (a) may be of general or limited application; and
 - (b) may differ according to differences in time, place or circumstance; and
 - (c) may apply, adopt or incorporate any matter contained in any document, code, standard, rule, specification, or method, formulated,

issued, prescribed or published by any person whether—

- (i) wholly or partially or as amended by the regulations; or
 - (ii) as formulated, issued, prescribed or published at the time the regulations are made or at any time before then; or
 - (iii) as formulated, issued, prescribed or published from time to time; and
 - (d) may leave anything for the approval or satisfaction of a specified person.
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PART 10—SAVINGS AND TRANSITIONAL

99. Definitions

In this Part—

"new Board" means the Medical Practitioners Board of Victoria established under this Act;

"old Act" means the **Medical Practitioners Act 1970** as in force immediately before its repeal;

"old Board" means the Medical Board of Victoria established under the old Act.

100. Repeal

The **Medical Practitioners Act 1970** is **repealed**.

101. Board succeeds old Board

(1) On the commencement of this section—

- (a) except for the purpose of giving effect to section 102, the old Board is abolished and its members go out of office; and
- (b) the new Board is the successor in law of the old Board; and
- (c) all rights, assets, liabilities and obligations of the old Board, immediately before its abolition, become rights, assets, liabilities and obligations of the new Board; and
- (d) the new Board is substituted for the old Board as a party in any proceeding, contract, agreement, or arrangement commenced or made by, against or in relation to the old Board; and
- (e) the new Board may continue and complete any other continuing matter or thing

commenced by, against or in relation to the old Board; and

- (f) any reference to the old Board in—
 - (i) an Act other than this Act; or
 - (ii) a subordinate instrument within the meaning of the **Interpretation of Legislation Act 1984**; or
 - (iii) any document whatever—

must, so far as it relates to any period on or after the commencement of this section, and if not inconsistent with the context or subject matter, be taken to be reference to the new Board.

- (2) On and from the commencement of this section, the assets that become assets of the new Board under sub-section (1)—
 - (a) if they are moneys or amounts standing to the credit of any fund or account of the old Board, must be taken to form part of the Medical Practitioners Fund; and
 - (b) if they are assets in which the funds of the old Board have been invested, must be taken to be investments of the Medical Practitioners Fund.

102. *Proceedings before the old Board*

- (1) If an investigation or inquiry into the activities or physical or mental health of a legally qualified medical practitioner under the old Act has commenced but not been completed before the commencement of Part 3 of this Act—
 - (a) that investigation or inquiry may be completed on and after that date; and

(b) any appeal or other further proceedings which might have been taken in relation to that investigation or inquiry under the old Act might be taken on and after that date—

S. 102(1)(b)
amended by
No. 49/1995
s. 5.

as if this Act had not been enacted.

(2) The new Board must give effect to a decision made on an inquiry, investigation or appeal to which sub-section (1) applies as if it were a decision under this Act.

102A. Application of this Act to conduct occurring before the commencement of this Act

S. 102A
inserted by
No. 49/1995
s. 6.

- (1) In the case of the activities of any medical practitioner which occurred before the commencement of Part 3, this Act applies insofar as there was power to conduct an inquiry under section 16 or 17 of the old Act into those activities.
- (2) Any determination or outcome of a hearing into those activities must be one which would have been available as a finding or decision in an inquiry by the old Board under the old Act.
- (3) Sub-section (1) does not apply to activities which are the subject of proceedings to which section 102 applies.

103. Existing registrations

- (1) A person who was registered as a legally qualified medical practitioner under the old Act immediately before the commencement of Part 2 of this Act, and to whom sub-sections (2) to (4) do not apply, is deemed to have general registration under this Act.
- (2) A person who held provisional registration under section 19A of the old Act immediately before the commencement of Part 2 of this Act, is deemed to have provisional registration under this Act and

that registration is deemed to be subject to the same conditions, limitations and restrictions as those which applied to that registration under the old Act.

- (3) A person who held temporary registration under section 19(3) or 27 of the old Act immediately before the commencement of Part 2 of this Act, is deemed to have specific registration under this Act and that registration is deemed to be subject to the same conditions, limitations and restrictions as those which applied to that registration under the old Act.
 - (4) A person who held conditional registration under section 27A of the old Act immediately before the commencement of this Act, is deemed to have specific registration under this Act, and that registration is deemed to be subject to the same conditions, limitations and restrictions as those which applied to that registration under the old Act.
 - (5) If a person is deemed to be registered under this section, and the registration of that person under the old Act, immediately before the commencement of this Act, was suspended, the registration of that person under this Act is deemed to be suspended for the remainder of the period for which that person's registration would have been suspended under the old Act.
 - (6) If a person is deemed to be registered under this section, and the registration of that person under the old Act, immediately before the commencement of this Act, was subject to conditions, limitations or restrictions, the registration of that person under this Act is deemed to be subject to the same conditions, limitations or restrictions as those to which the registration under the old Act was subject.
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- (7) The registration of a person who is deemed to be registered under this section expires (unless sooner cancelled) on 31 December next following the date of commencement of Part 2.

104. References

In—

- (a) an Act; or
- (b) a subordinate instrument within the meaning of the **Interpretation of Legislation Act 1984**; or
- (c) any document whatever—

in relation to any period occurring on or after the commencement of this section and, unless inconsistent with the context or subject matter, a reference in Column 1 of the table below must be taken to be the reference listed opposite it in Column 2.

Table—References

Medical Practitioners Act 1970	Medical Practice Act 1994
legally qualified medical practitioner	registered medical practitioner within the meaning of the Medical Practice Act 1994
Medical Board of Victoria	Medical Practitioners Board of Victoria

105. Preparation of Annual Report

The new Board shall prepare the annual reports that the old Board and the Hospitals Accreditation Committee would have been required to prepare for the financial year ending on 30 June 1994 under section 34A of the old Act, if the old Act had not been repealed.

106. New inquiry grounds—Dentists Act 1972

In section 25(1) of the **Dentists Act 1972**, after paragraph (ba) **insert—**

"(bb) has an illness or incapacity which significantly impairs his or her capacity to practise safely; or".

107. Appeal grounds—Dentists Act 1972

In section 26(2)(a) of the **Dentists Act 1972**, after "(ba)" **insert "**, (bb)".

108. Suspension of registration—Dentists Act 1972

After section 27 of the **Dentists Act 1972** **insert—**

"27A. Suspension of registration pending inquiry

- (1) Where the Board has determined to conduct an inquiry under section 25(5), the Board may suspend the registration of the dentist until the inquiry is completed, if the Board is of the opinion that it is necessary to do so because there is a serious risk that the health and safety of the public will be endangered.
- (2) If the Board has suspended the registration of a dentist under sub-section (1), it must—
 - (a) immediately notify the dentist of that suspension; and
 - (b) ensure that the inquiry is conducted as expeditiously as possible."

109. New inquiry grounds and penalties—Pharmacists Act 1974

In section 18(3) of the **Pharmacists Act 1974—**

-
- (a) in paragraph (b), after "pharmacist" **insert** "or has an incapacity which is likely to affect his or her ability to carry on the practice of a pharmacist";
 - (b) after paragraph (vi) **insert—**
";
 - (vii) conditions, limitations or restrictions on the practice of the pharmacist—".

110. Suspension of registration—Pharmacists Act 1974

After section 18 of the **Pharmacists Act 1974** **insert—**

"18A. Suspension of registration pending inquiry

- (1) Where the Board has determined to conduct an inquiry under section 18, the Board may suspend the registration of the pharmacist until the inquiry is completed, and, if there is an appeal from the inquiry, until the appeal is completed, if the Board is of the opinion that it is necessary to do so because there is a serious risk that the health and safety of the public will be endangered.
- (2) If the Board has suspended the registration of a pharmacist under sub-section (1), it must—
 - (a) immediately notify the pharmacist of that suspension; and
 - (b) ensure that the inquiry is conducted as expeditiously as possible."

111. New inquiry grounds—Physiotherapists Act 1978

In section 17A of the **Physiotherapists Act 1978—**

- (a) in sub-section (1), after "activities" **insert** "or capacity to practise"; and
- (b) in sub-section (2), after "activities" **insert** "or capacity to practise"; and
- (c) in sub-section (4), after paragraph (a) **insert—**
 - "(aa) has an illness or incapacity which significantly impairs his or her capacity to practise safely;".

112. *Suspension of registration—Physiotherapists Act 1978*

After section 17A of the **Physiotherapists Act 1978 insert—**

"17AB. *Suspension of registration pending inquiry*

- (1) Where the Board has determined to conduct an inquiry under section 17A, the Board may suspend the registration of the physiotherapist until the inquiry is completed, if the Board is of the opinion that it is necessary to do so because there is a serious risk that the health and safety of the public will be endangered.
- (2) If the Board has suspended the registration of a physiotherapist under sub-section (1), it must—
 - (a) immediately notify the physiotherapist of that suspension; and
 - (b) ensure that the inquiry is conducted as expeditiously as possible."

113. *New Inquiry Grounds—Chiropractors and Osteopaths Act 1978*

In section 13A of the **Chiropractors and Osteopaths Act 1978—**

-
- (a) in sub-section (1), after "activities" **insert** "or capacity to practise"; and
 - (b) in sub-section (2), after "activities" **insert** "or capacity to practise"; and
 - (c) in sub-section (4), after paragraph (a) **insert—**
 - "(aa) has an illness or incapacity which significantly impairs his or her capacity to practise safely;"

114. *Suspension of registration—Chiropractors and Osteopaths Act 1978*

After section 13A of the **Chiropractors and Osteopaths Act 1978** **insert—**

"13AB. *Suspension of registration pending inquiry*

- (1) Where the Board has determined to conduct an inquiry under section 13A, the Board may suspend the registration of the chiropractor and osteopath until the inquiry is completed, if the Board is of the opinion that it is necessary to do so because there is a serious risk that the health and safety of the public will be endangered.
- (2) If the Board has suspended the registration of a chiropractor and osteopath under sub-section (1), it must—
 - (a) immediately notify the chiropractor and osteopath of that suspension; and
 - (b) ensure that the inquiry is conducted as expeditiously as possible."

115. *Inquiries—Radiographers and Radiation Technologists Registration Board*

- (1) In section 108AL(3) of the **Health Act 1958**, for paragraph (f) **substitute—**

Medical Practice Act 1994

Act No. 23/1994

"(f) providing for the Board to hold inquiries into the conduct or capacity to practise of persons registered by the Board and to enable the Board to impose conditions, limitations or restrictions on registration or cancel or suspend registration as a result of an inquiry and to suspend registration pending the holding of an inquiry;"

(2) In section 6 of the **Health Radiographers Act 1990**, paragraph (f) is **repealed**.

116. *Amendment of Children and Young Persons Act 1989*

In section 64(1C) of the **Children and Young Persons Act 1989**, for paragraph (a) **substitute**—

"(a) a person registered under the **Medical Practice Act 1994**;"

117. *Amendment of Health Services (Conciliation and Review) Act 1987*

In the Schedule to the **Health Services (Conciliation and Review) Act 1987**, for "Medical Board of Victoria" **substitute** "Medical Practitioners Board of Victoria".

118. *Minor consequential amendments*

An Act specified in the heading to an item in Schedule 1 is amended as set out in that item.

119. *Amendments to the Nurses Act 1993*

The **Nurses Act 1993** is amended as set out in Schedule 2.

SCHEDULES

SCHEDULE 1

CONSEQUENTIAL AMENDMENTS TO VARIOUS ACTS

1. *Accident Compensation Act 1985*

1.1 In section 5(1), in the definition of "medical practitioner", for paragraph (a) **substitute**—

"(a) a registered medical practitioner within the meaning of the **Medical Practice Act 1994**; and".

2. *Adoption Act 1984*

2.1 In section 43(3), for "duly qualified medical practitioners" **substitute** "registered medical practitioners within the meaning of the **Medical Practice Act 1994**".

2.2 In section 89, for "legally qualified medical practitioner" **substitute** "registered medical practitioner within the meaning of the **Medical Practice Act 1994**".

3. *Alcoholics and Drug-dependent Persons Act 1968*

3.1 In section 3, after the definition of "Inspector" **insert**—

' "**registered medical practitioner**" means a registered medical practitioner within the meaning of the **Medical Practice Act 1994**;'.

3.2 In section 5(3), for "legally qualified" **substitute** "registered".

3.3 In section 11(1), for "legally qualified" **substitute** "registered".

3.4 In section 12(1), for "legally qualified" **substitute** "registered".

3.5 In section 16—

(a) in sub-section (1), before "medical practitioner" **insert** "registered"; and

(b) in sub-section (2), before "medical practitioner" (wherever occurring) **insert** "registered"; and

(c) in sub-section (3)—

Medical Practice Act 1994

Act No. 23/1994

- (i) before "medical practitioner" (where first occurring), **insert** "registered"; and
 - (ii) for "legally qualified" **substitute** "registered"; and
 - (d) in sub-section (4), before "medical practitioner" **insert** "registered".
- 3.6 In section 19(1), for "legally qualified" **substitute** "registered".
- 3.7 In section 20(3), before "medical practitioner" **insert** "registered".

4. *Bail Act 1977*

- 4.1 In section 5(4)—
- (a) for "medical practitioner" (where first occurring), **substitute** "registered medical practitioner within the meaning of the **Medical Practice Act 1994**"; and
 - (b) before "medical practitioner" (where secondly occurring), **insert** "registered".

5. *Baker Medical Research Institute Act 1980*

- 5.1 In section 10(1)(e), before "medical practitioners" **insert** "registered".

6. *Cancer Act 1958*

- 6.1 In section 32(c)(i), before "medical practitioners" **insert** "registered".
- 6.2 In section 59(1)—
- (a) the definition of "medical practitioner" is **repealed**; and
 - (b) after the definition of "registered funded agency" **insert**—
' "registered medical practitioner" means a registered medical practitioner within the meaning of the **Medical Practice Act 1994**;'.
- 6.3 In section 62—
- (a) in sub-section (1), before "medical practitioner" **insert** "registered"; and
 - (b) in sub-section (6)(b), before "medical practitioner" **insert** "registered".
-

7. Cemeteries Act 1958

- 7.1 In section 2(3), after the definition of "Chief General Manager" **insert**—
' **"registered medical practitioner"** means a registered medical practitioner within the meaning of the **Medical Practice Act 1994**;'.
- 7.2 In section 19(2), for "legally qualified" (where twice occurring), **substitute** "registered".
- 7.3 In section 77(3) and (4), for "legally qualified" (where twice occurring), **substitute** "registered".
- 7.4 In section 77(6) and (7), for "licensed medical practitioner" **substitute** "licensed registered medical practitioner".
- 7.5 In section 78(1), for "legally qualified" **substitute** "registered".
- 7.6 In the Second Schedule, in Form A, before "medical practitioners" **insert** "registered".

8. Children and Young Persons Act 1989

- 8.1 In section 64(1C), for paragraph (a) **substitute**—
"(a) a registered medical practitioner within the meaning of the **Medical Practice Act 1994**;".

9. Chiropodists Act 1968

- 9.1 In section 2—
(a) the definition of "Medical practitioner" is **repealed**;
and
(b) after the definition of "Register" **insert**—
' **"registered medical practitioner"** means a registered medical practitioner within the meaning of the **Medical Practice Act 1994**;'.
- 9.2 In section 3, before "medical practitioner" **insert** "registered".
- 9.3 In section 4, before "medical practitioners" (where twice occurring), **insert** "registered".
- 9.4 In section 6(1)(f)—
(a) before "medical practitioner" **insert** "registered"; and
(b) for "**Medical Practitioners Act 1970**" (where twice occurring), **substitute** "**Medical Practice Act 1994**".

Medical Practice Act 1994
Act No. 23/1994

10. Chiropractors and Osteopaths Act 1978

10.1 In section 2—

(a) the definition of "medical practitioner" is **repealed**;
and

(b) after the definition of "register" **insert**—

' "**registered medical practitioner**" means a
registered medical practitioner within the
meaning of the **Medical Practice Act 1994**;'.

10.2 In section 3(2)(g), before "medical practitioner" **insert**
"registered".

10.3 In section 17(2), before "medical practitioner" (where twice
occurring), **insert** "registered".

10.4 In section 20(1), for "Section 28(1) of the **Medical
Practitioners Act 1970** and section 11(1) of the
Physiotherapists Act 1978 do" **substitute** "Section 11(1)
of the **Physiotherapists Act 1978** does".

10.5 In section 20(2), for "Section 28(4) of the **Medical
Practitioners Act 1970** and section 24(1) of the
Physiotherapists Act 1978 do" **substitute** "Section 24(1)
of the **Physiotherapists Act 1978** does".

11. Coal Mines (Pensions) Act 1958

11.1 In section 105(4), for "legally qualified medical
practitioner" (where twice occurring), **substitute** "registered
medical practitioner within the meaning of the **Medical
Practice Act 1994**".

12. Construction Industry Long Service Leave Act 1983

12.1 In section 34(1)(b), for "legally qualified medical
practitioner" **substitute** "registered medical practitioner
within the meaning of the **Medical Practice Act 1994**".

13. Coroners Act 1985

13.1 In section 3, in the definition of "doctor", for "person
registered as a legally qualified medical practitioner under
the **Medical Practitioners Act 1970**" **substitute** "registered
medical practitioner within the meaning of the **Medical
Practice Act 1994**".

13.2 In section 3(1), for "a legally qualified medical practitioner"
substitute "authorised to certify that death".

14. Corrections Act 1986

- 14.1 In section 14, in paragraph (f) of the definition of "officer", before "medical practitioner" **insert** "registered".
- 14.2 In section 16, for "legally qualified medical practitioner" **substitute** "registered medical practitioner within the meaning of the **Medical Practice Act 1994**".
- 14.3 In section 29C(2), for "legally qualified medical practitioner" **substitute** "registered medical practitioner within the meaning of the **Medical Practice Act 1994**".
- 14.4 In section 47(1), before "medical practitioner" **insert** "registered".
- 14.5 In section 77(8)—
 - (a) for "legally qualified medical practitioner" **substitute** "registered medical practitioner within the meaning of the **Medical Practice Act 1994**"; and
 - (b) before "medical practitioner" **insert** "registered".
- 14.6 In section 85, in paragraph (e) of the definition of "officer", before "medical practitioner" **insert** "registered".

15. Crimes Act 1958

- 15.1 In section 464(2), after the definition of "prison" **insert**—
' "**registered medical practitioner**" means a registered medical practitioner within the meaning of the **Medical Practice Act 1994**.'.
- 15.2 In section 464S—
 - (a) in sub-section (3), for "duly qualified" **substitute** "registered"; and
 - (b) in sub-section (3)(c)(iii), before "medical practitioner" **insert** "registered"; and
 - (c) in sub-section (4), before "medical practitioner" **insert** "registered"; and
 - (d) in sub-section (5), before "medical practitioner" **insert** "registered".
- 15.3 In section 464T(1)(c), before "medical practitioner" **insert** "registered".
- 15.4 In section 464U(5)(d), before "medical practitioner" **insert** "registered".

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- 15.5 In section 464V(6)(d), before "medical practitioner" **insert** "registered".
- 15.6 In section 464X(1), before "medical practitioner" **insert** "registered".
- 15.7 In section 464Y, before "medical practitioner" (wherever occurring), **insert** "registered".
- 15.8 In section 464ZE—
- (a) for "legally qualified" **substitute** "registered"; and
 - (b) before "medical practitioner" **insert** "registered".

16. Dentists Act 1972

- 16.1 In section 12(1), for "the name of a medical practitioner (whose name is also on the Dentists' Register) is removed from the Medical Practitioners Register of Victoria" **substitute** "the registration of a registered medical practitioner (whose name is also on the Dentists' Register) is cancelled or suspended".
- 16.2 In section 38(2)—
- (a) in paragraph (b), before "medical practitioner" **insert** "registered"; and
 - (b) in paragraph (c), before "medical practitioner" **insert** "registered"; and
 - (c) in paragraph (f), before "medical practitioner" **insert** "registered".

17. Drugs, Poisons and Controlled Substances Act 1981

- 17.1 In section 4—
- (a) the definition of "medical practitioner" is **repealed**; and
 - (b) after the definition of "Proclamation" **insert**—
' "registered medical practitioner" means a registered medical practitioner within the meaning of the **Medical Practice Act 1994**;'.
- 17.2 In section 7, for "**Medical Practitioners Act 1970**" **substitute** "**Medical Practice Act 1994**".
- 17.3 In the Table in section 12A, for "medical practitioners" (wherever occurring), **substitute** "registered medical practitioners".
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- 17.4 In section 13, for "medical practitioner" (wherever occurring), **substitute** "registered medical practitioner".
- 17.5 In section 14—
- (a) for "**Medical Practitioners Act 1970**" **substitute** "**Medical Practice Act 1994**"; and
 - (b) for "Medical Board of Victoria" **substitute** "Medical Practitioners Board of Victoria"; and
 - (c) for "legally qualified medical practitioner" **substitute** "registered medical practitioner"; and
 - (d) before "medical practitioner" **insert** "registered".
- 17.6 In section 15(2)—
- (a) in paragraph (a), for "legally qualified medical practitioner" **substitute** "registered medical practitioner"; and
 - (b) in paragraph (f), for "legally qualified medical practitioners" **substitute** "registered medical practitioners"; and
 - (c) in paragraph (j), for "legally qualified medical practitioner" **substitute** "registered medical practitioner"; and
 - (d) in paragraph (l), for "legally qualified medical practitioner" **substitute** "registered medical practitioner".
- 17.7 In section 15(7) for "legally qualified medical practitioner" (where twice occurring) **substitute** "registered medical practitioner".
- 17.8 In section 33 before "medical practitioner" (wherever occurring) **insert** "registered".
- 17.9 In section 34(1) before "medical practitioner" **insert** "registered".
- 17.10 In section 35 before "medical practitioner" (wherever occurring) **insert** "registered".
- 17.11 In section 36B(1) before "medical practitioner" (wherever occurring) **insert** "registered".
- 17.12 In section 56(9), before "medical practitioner" **insert** "registered".
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- 17.13 In section 78, in paragraphs (b) and (c), before "medical practitioner" **insert** "registered".
- 17.14 In section 119, in paragraph (a), for "legally qualified" (where twice occurring) **substitute** "registered".
- 17.15 In section 119, in paragraph (b)—
- (a) for "legally qualified" **substitute** "registered"; and
 - (b) for "secretary of the Medical Board of Victoria" **substitute** "President or any 2 members of the Medical Practitioners Board of Victoria".
- 17.16 In section 129(1), before "medical practitioners" (wherever occurring) **insert** "registered".
- 17.17 In section 129(2), before "medical practitioner" **insert** "registered".
- 17.18 In section 132—
- (a) in paragraphs (q), (za) and (zc), before "medical practitioner" **insert** "registered"; and
 - (b) in paragraphs (k) and (z), before "medical practitioners" **insert** "registered".
- 18. Emergency Services Superannuation Act 1986**
- 18.1 In section 24(2), for "legally qualified medical practitioner" **substitute** "registered medical practitioner within the meaning of the **Medical Practice Act 1994**".
- 19. Employee Relations Act 1992**
- 19.1 In section 4—
- (a) the definition of "medical practitioner" is **repealed**; and
 - (b) after the definition of "records" **insert**—
' **"registered medical practitioner"** means a registered medical practitioner within the meaning of the **Medical Practice Act 1994**;'.
- 19.2 In Part 2 of Schedule 1—
- (a) in clause 3, in the definition of "expected date of confinement", before "medical practitioner" (where twice occurring), **insert** "registered"; and
 - (b) in clause 5(a), before "medical practitioner" **insert** "registered"; and
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- (c) in clause 7, before "medical practitioner" (where twice occurring), **insert** "registered"; and
 - (d) in clause 10, before "medical practitioner" (wherever occurring), **insert** "registered".

19.3 In Part 3 of Schedule 1—

- (a) in clause 17, in the definition of "expected date of confinement", before "medical practitioner" (where twice occurring), **insert** "registered"; and
- (b) in clause 19(a), before "medical practitioner" **insert** "registered".

20. Evidence Act 1958

- 20.1 In section 55(8), for "legally qualified medical practitioner" **substitute** "registered medical practitioner within the meaning of the **Medical Practice Act 1994**".
- 20.2 In section 107A(1)(p), for "legally qualified medical practitioner" **substitute** "registered medical practitioner within the meaning of the **Medical Practice Act 1994**".

21. Food Act 1984

21.1 In section 4(1)—

- (a) the definition of "Medical practitioner" is **repealed**; and
- (b) after the definition of "Publish" **insert**—
' **"registered medical practitioner"** means a registered medical practitioner within the meaning of the **Medical Practice Act 1994**;'.

- 21.2 In section 60(2)(a), before "medical practitioner" **insert** "registered".

22. Freedom of Information Act 1982

- 22.1 In section 33(4), for "legally qualified medical practitioner" **substitute** "registered medical practitioner within the meaning of the **Medical Practice Act 1994**".
- 22.2 In section 33(5), for "legally qualified medical practitioner" (where twice occurring), **substitute** "registered medical practitioner within the meaning of the **Medical Practice Act 1994**".

23. Guardianship and Administration Board Act 1986

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23.1 In section 11(1), for "medical practitioner" **substitute** "registered medical practitioner within the meaning of the **Medical Practice Act 1994**".

23.2 In section 37 for "medical practitioner" (where twice occurring), **substitute** "registered medical practitioner within the meaning of the **Medical Practice Act 1994**".

24. Health Act 1958

24.1 In section 3—

- (a) in the definition of "health officer", before "medical practitioner" **insert** "registered"; and
- (b) in the definition of "medical officer of health", before "medical practitioner" **insert** "registered"; and
- (c) the definition of "medical practitioner" is **repealed**; and
- (d) after the definition of "refuse" **insert**—

' "**registered medical practitioner**" means a registered medical practitioner within the meaning of the **Medical Practice Act 1994**;'.

24.2 In section 30(1), before "medical practitioner" **insert** "registered".

24.3 In section 80(1), before "medical practitioner" **insert** "registered".

24.4 In section 108AL(2)(c), before "medical practitioner" **insert** "registered".

24.5 In section 118, in paragraph (a) of the definition of "care-giver or custodian", for "legally qualified" **substitute** "registered".

24.6 In section 120A(1)(b), before "medical practitioner" **insert** "registered".

24.7 In section 120C, before "medical practitioner" (wherever occurring), **insert** "registered".

24.8 In section 126, before "medical practitioner" (wherever occurring), **insert** "registered".

24.9 In section 127, before "medical practitioner" (wherever occurring), **insert** "registered".

24.10 In section 130, before "medical practitioner" (wherever occurring), **insert** "registered".

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- 24.11 In the Table to section 132, in item 3, before "medical practitioner" (wherever occurring), **insert** "registered".
- 24.12 In the Table to section 133, before "medical practitioner" (wherever occurring), **insert** "registered".
- 24.13 In section 138(b), before "medical practitioners" **insert** "registered".
- 24.14 In section 144, before "medical practitioner" (wherever occurring), **insert** "registered".
- 24.15 In section 162B—
- (a) the definition of "medical practitioner" is **repealed**;
and
 - (b) after the definition of "proprietor" **insert**—
' **"registered medical practitioner"** means a registered medical practitioner within the meaning of the **Medical Practice Act 1994**;'.
- 24.16 In section 162F(1)(c), before "medical practitioners" **insert** "registered".
- 24.17 In section 162G(2), before "medical practitioner" (where twice occurring), **insert** "registered".
- 24.18 In section 260(2), for "legally qualified" (where twice occurring), **substitute** "registered".
- 24.19 In section 270N(6), before "medical practitioner" (where twice occurring), **insert** "registered".
- 24.20 In section 390(2C), before "medical practitioners" (wherever occurring), **insert** "registered".
- 24.21 In section 391(1)(c), before "medical practitioners" **insert** "registered".

25. Health Services Act 1988

- 25.1 In section 3—
- (a) the definition of "medical practitioner" is **repealed**;
and
 - (b) after the definition of "registered funded agency" **insert**—
' **"registered medical practitioner"** means a registered medical practitioner within the meaning of the **Medical Practice Act 1994**;'.

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- 25.2 In section 6(a)(i), before "medical practitioner" **insert** "registered".
- 25.3 In section 10(a), before "medical practitioner" **insert** "registered".
- 25.4 In section 24(2)(f), before "medical practitioners" **insert** "registered".
- 25.5 In section 33(8), before "medical practitioner" **insert** "registered".
- 25.6 In section 41(2), before "medical practitioner" (wherever occurring), **insert** "registered"
- 25.7 In section 46(3), before "medical practitioners" **insert** "registered".

26. *Hospitals Superannuation Act 1988*

- 26.1 In section 3(1)—
 - (a) in the definition of "Disability" for "legally qualified" **substitute** "registered"; and
 - (b) after the definition of "Prescribed" **insert**—
 - ' "registered medical practitioner" means a registered medical practitioner within the meaning of the **Medical Practice Act 1994**;'.
- 26.2 In section 43, for "legally qualified" (where twice occurring), **substitute** "registered".
- 26.3 In section 44A(2), for "legally qualified" **substitute** "registered".
- 26.4 In section 46, for "legally qualified" (wherever occurring), **substitute** "registered".

27. *Human Tissue Act 1982*

- 27.1 In section 3(1)—
 - (a) in paragraph (a) of the definition of "Designated officer", before "medical practitioner" **insert** "registered"; and
 - (b) the definition of "Medical practitioner" is **repealed**; and
 - (c) after the definition of "Regenerative tissue" **insert**—
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' **"registered medical practitioner"** means a registered medical practitioner within the meaning of the **Medical Practice Act 1994**;

- 27.2 In section 4(1), before "medical practitioners" **insert** "registered".
- 27.3 In section 9, before "medical practitioner" **insert** "registered".
- 27.4 In section 10, before "medical practitioner" (where twice occurring), **insert** "registered".
- 27.5 In section 11, before "medical practitioner" (where twice occurring), **insert** "registered".
- 27.6 In section 12, before "medical practitioner" (wherever occurring), **insert** "registered".
- 27.7 In section 15(2), before "medical practitioner" **insert** "registered".
- 27.8 In section 16, before "medical practitioner" (where twice occurring), **insert** "registered".
- 27.9 In section 17, before "medical practitioner" (wherever occurring), **insert** "registered".
- 27.10 In section 18, before "medical practitioner" (wherever occurring), **insert** "registered".
- 27.11 In section 22(a), before "medical practitioner" **insert** "registered".
- 27.12 In section 24, before "medical practitioner" (wherever occurring), **insert** "registered".
- 27.13 In section 26—
- (a) before "medical practitioner" (wherever occurring), **insert** "registered"; and
 - (b) in sub-section (7)(b), before "medical practitioners" **insert** "registered".
- 27.14 In section 27(1), before "medical practitioner" (where twice occurring), **insert** "registered".
- 27.15 In section 28, before "medical practitioner" (wherever occurring), **insert** "registered".
- 27.16 In section 30(1), before "medical practitioner" **insert** "registered".

- 27.17 In section 32, before "medical practitioner" (wherever occurring), **insert** "registered".
- 27.18 In section 33(1), before "medical practitioner" (where twice occurring), **insert** "registered".
- 27.19 In section 42(1)(a)(i), before "medical practitioner" **insert** "registered".
- 27.20 In section 45(2), before "medical practitioner" (wherever occurring), **insert** "registered".
- 27.21 The Schedule is **repealed**.

28. Infertility (Medical Procedures) Act 1984

- 28.1 In section 3(2)(a)(ii), before "medical practitioner" **insert** "registered".
- 28.2 In section 8(1), before "medical practitioners" **insert** "registered".
- 28.3 In section 9A, before "medical practitioner" (wherever occurring), **insert** "registered".
- 28.4 In section 10(3)—
 - (a) in paragraphs (c) and (d), before "medical practitioner" (where second occurring) **insert** "registered"; and
 - (b) in paragraph (e), before "medical practitioner" **insert** "registered".

Sch. 1 item
28.4
substituted by
No. 49/1995
s. 7.

- 28.5 In section 11(3)—
 - (a) in paragraphs (c) and (d), before "medical practitioner" (where second occurring) **insert** "registered"; and
 - (b) in paragraph (e), before "medical practitioner" **insert** "registered".

Sch. 1 item
28.5
substituted by
No. 49/1995
s. 7.

- 28.6 In section 12(3)—
 - (a) in paragraphs (c) and (d), before "medical practitioner" (where second occurring) **insert** "registered"; and
 - (b) in paragraph (e), before "medical practitioner" **insert** "registered".

Sch. 1 item
28.6
substituted by
No. 49/1995
s. 7.

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28.7 In section 13(3)—

(a) in paragraphs (c) and (d), before "medical practitioner" (where second occurring) **insert** "registered"; and

(b) in paragraph (f), before "medical practitioner" **insert** "registered".

Sch. 1 item
28.7
substituted by
No. 49/1995
s. 7.

28.8 In section 13A(3)—

(a) in paragraphs (c) and (d), before "medical practitioner" (where second occurring) **insert** "registered"; and

(b) in paragraph (e), before "medical practitioner" **insert** "registered".

Sch. 1 item
28.8
substituted by
No. 49/1995
s. 7.

28.9 In section 17(1), before "medical practitioner" **insert** "registered".

28.10 In section 21, before "medical practitioner" (where twice occurring), **insert** "registered".

28.11 In section 23(1), before "medical practitioner" **insert** "registered".

28.12 In section 29(1)(b), before "medical practitioners" **insert** "registered".

29. *Intellectually Disabled Persons' Services Act 1986*

29.1 In section 3—

(a) the definition of "medical practitioner" is **repealed**; and

(b) after the definition of "regional plan" **insert**—

' "registered medical practitioner" means a registered medical practitioner within the meaning of the **Medical Practice Act 1994**;'.

29.2 In section 66, before "medical practitioners" **insert** "registered".

30. *Juries Act 1967*

30.1 In Schedule 4, in clause 6—

(a) for "Medical practitioners" **substitute** "Registered medical practitioners"; and

(b) for "**Medical Practitioners Act 1970**" **substitute** "**Medical Practice Act 1994**".

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31. *Liquor Control Act 1987*

31.1 In section 7(c), for "legally qualified medical practitioner" **substitute** "registered medical practitioner within the meaning of the **Medical Practice Act 1994**".

32. *Local Authorities Superannuation Act 1988*

32.1 In section 3(1)—

(a) in the definition of "Disability" for "legally qualified" **substitute** "registered"; and

(b) after the definition of "Pensioner" **insert**—

' **"registered medical practitioner"** means a registered medical practitioner within the meaning of the **Medical Practice Act 1994**;'.

32.2 In section 24(7)(c), for "legally qualified" **substitute** "registered".

32.3 In section 24(8), before "medical practitioner" **insert** "registered".

32.4 In section 30(1)(c), for "legally qualified" **substitute** "registered".

32.5 In section 48—

(a) for "legally qualified" (where twice occurring), **substitute** "registered"; and

(b) in sub-section (3), before "medical practitioner" (where twice occurring), **substitute** "registered".

33. *Maintenance Act 1965*

33.1 In section 12(2), before "medical practitioner" **insert** "registered".

34. *Marine Act 1988*

34.1 In section 3(1), after the definition of "Recreational vessel" **insert**—

' **"registered medical practitioner"** means a registered medical practitioner within the meaning of the **Medical Practice Act 1994**;'.

34.2 In section 31(7)—

(a) for "legally qualified" **substitute** "registered"; and

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(b) before "medical practitioner" **substitute** "registered".

34.3 In section 31(8), for "legally qualified" **substitute** "registered".

34.4 In section 31A(1), in the definition of "doctor", for "legally qualified" **substitute** "registered".

34.5 In section 32, for "legally qualified" (wherever occurring), **substitute** "registered".

34.6 In Schedule 5, in clause 62C, for "legally qualified" **substitute** "registered".

35. *Martial Arts Control Act 1986*

35.1 In section 9(1), for "legally qualified medical practitioners" **substitute** "registered medical practitioners within the meaning of the **Medical Practice Act 1994**".

35.2 In section 9(1A)(b), for "the relevant government body who controls the practice of that person" **substitute** "that practitioner's relevant registration body".

35.3 In section 17(1)(b), for "legally qualified medical practitioners" **substitute** "registered medical practitioners within the meaning of the **Medical Practice Act 1994**".

36. *Meat Industry Act 1993*

36.1 In section 3—

(a) the definition of "legally qualified medical practitioner" is **repealed**; and

(b) after the definition of "processing" **insert**—

' "**registered medical practitioner**" means a registered medical practitioner within the meaning of the **Medical Practice Act 1994**;'.

36.2 In section 48(2)(c), for "legally qualified" **substitute** "registered".

37. *Medical Treatment Act 1988*

37.1 In section 3—

(a) the definition of "medical practitioner" is **repealed**; and

(b) after the definition of "refusal of treatment certificate" **insert**—

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' "registered medical practitioner" means a registered medical practitioner within the meaning of the **Medical Practice Act 1994**;'.

- 37.2 In section 4, before "medical practitioner" (where twice occurring), **insert** "registered".
- 37.3 In section 5(1), before "medical practitioner" (where twice occurring), **insert** "registered".
- 37.4 In section 5B(1), before "medical practitioner" **insert** "registered".
- 37.5 In section 5E(2), before "medical practitioner" **insert** "registered".
- 37.6 In section 6, before "medical practitioner" **insert** "registered".
- 37.7 In section 7(1), before "medical practitioner" **insert** "registered".
- 37.8 In the heading to Part 3, before "MEDICAL PRACTITIONERS" **insert** "REGISTERED".
- 37.9 In section 9(1), before "medical practitioner" (where twice occurring), **insert** "registered".
- 37.10 In Schedule 1—
- (a) before "Medical Practitioner" (where first occurring), **insert** "Registered"; and
 - (b) before "medical practitioner" (where secondly occurring), **insert** "registered".
- 37.11 In Schedule 3—
- (a) before "Medical Practitioner" (where first occurring), **insert** "Registered"; and
 - (b) before "medical practitioner" (where subsequently occurring), **insert** "registered".
- 38. *Mental Health Act 1986***
- 38.1 In section 3—
- (a) the definition of "medical practitioner" is **repealed**; and
 - (b) after the definition of "Public Advocate" **insert**—
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' **"registered medical practitioner"** means a registered medical practitioner within the meaning of the **Medical Practice Act 1994**;

- 38.2 In section 7(7), before "medical practitioner" **insert** "registered".
- 38.3 In section 9, before "medical practitioner" (wherever occurring), **insert** "registered".
- 38.4 In section 10, before "medical practitioner" (wherever occurring), **insert** "registered".
- 38.5 In section 11, before "medical practitioner" (where twice occurring), **insert** "registered".
- 38.6 In section 12, before "medical practitioner" (wherever occurring), **insert** "registered".
- 38.7 In section 14(2), before "medical practitioner" (where twice occurring), **insert** "registered".
- 38.8 In section 25, before "medical practitioner" **insert** "registered".
- 38.9 In section 55(1)(e)—
- (a) **omit** "(including any notifiable interest in a private hospital within the meaning of the **Medical Practitioners Act 1970**)"; and
 - (b) before "medical practitioner" **insert** "registered".
- 38.10 In section 57(2)—
- (a) before "medical practitioner" (where twice occurring), **insert** "registered"; and
 - (b) for "Medical Board of Victoria" **substitute** "Medical Practitioners Board of Victoria".
- 38.11 In section 66(1)(a)—
- (a) before "medical practitioner" **insert** "registered"; and
 - (b) before "medical practitioners" **insert** "registered".
- 38.12 In section 72(1)(e)—
- (a) **omit** "(including any notifiable interest in a private hospital within the meaning of the **Medical Practitioners Act 1970**)"; and
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- (b) before "medical practitioner" **insert** "registered".
- 38.13 In section 73(2)—
- (a) before "medical practitioner" (where twice occurring), **insert** "registered"; and
- (b) for "Medical Board of Victoria" **substitute** "Medical Practitioners Board of Victoria".
- 38.14 In section 73(5), before "medical practitioner" **insert** "registered".
- 38.15 In section 74(3)—
- (a) before "medical practitioner" (where twice occurring), **insert** "registered"; and
- (b) for "Medical Board of Victoria" **substitute** "Medical Practitioners Board of Victoria".
- 38.16 In section 84(1)(e), before "medical practitioner" **insert** "registered".
- 38.17 In section 84(2)—
- (a) before "medical practitioner" (where twice occurring), **insert** "registered"; and
- (b) for "Medical Board of Victoria" **substitute** "Medical Practitioners Board of Victoria".
- 38.18 In section 95(1), before "medical practitioners" **insert** "registered".
- 38.19 In section 96(5), before "medical practitioners" **insert** "registered".
- 38.20 In section 123, before "medical practitioner" (wherever occurring), **insert** "registered".
- 38.21 In section 124—
- (a) before "medical practitioner" (wherever occurring), **insert** "registered"; and
- (b) for "Medical Board of Victoria" (where twice occurring), **substitute** "Medical Practitioners Board of Victoria".
- 38.22 In section 125, before "medical practitioner", **insert** "registered".
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- 38.23 In section 126(1)—
- (a) before "medical practitioner" (where twice occurring), **insert** "registered"; and
 - (b) for "Medical Board of Victoria" **substitute** "Medical Practitioners Board of Victoria".
- 38.24 In section 126(2), before "medical practitioner" **insert** "registered".
- 38.25 In section 127, before "medical practitioner" (where twice occurring), **insert** "registered"; and
- 38.26 In Schedule 2, in clause 1(2)(b), before "medical practitioner" **insert** "registered".
- 38.27 In Schedule 5—
- (a) in clause 1(4), before "medical practitioner" **insert** "registered"; and
 - (b) in clause 2(2), before "medical practitioner" (where twice occurring), **insert** "registered".
- 39. Optometrists Registration Act 1958**
- 39.1 In section 3—
- (a) the definition of "medical practitioner" is **repealed**; and
 - (b) after the definition of "Register" **insert**—

' "registered medical practitioner" means a registered medical practitioner within the meaning of the **Medical Practice Act 1994**;'.
- 39.2 In section 4, before "medical practitioner" (where twice occurring), **insert** "registered".
- 39.3 In section 13(2)(a), before "medical practitioner" **insert** "registered".
- 40. Parliamentary Salaries and Superannuation Act 1968**
- 40.1 In section 17(1), for "legally qualified medical practitioner" **substitute** "registered medical practitioner within the meaning of the **Medical Practice Act 1994**".
- 41. Pathology Services Accreditation Act 1984**
- 41.1 In section 3(1), in the definition of "medical practitioner" for "registered as a legally qualified medical practitioner under the **Medical Practitioners Act 1970**" **substitute** "a
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registered medical practitioner within the meaning of the **Medical Practice Act 1994**".

42. *Physiotherapists Act 1978*

42.1 In section 3—

(a) the definition of "Medical practitioner" is **repealed**;
and

(b) after the definition of "Register" **insert**—

' "**registered medical practitioner**" means a
registered medical practitioner within the
meaning of the **Medical Practice Act 1994**;'.

42.2 In section 5(1)(a), before "medical practitioners" **insert**
"registered".

42.3 In section 11(2), before "medical practitioner" (where twice
occurring), **insert** "registered".

42.4 Section 23 is **repealed**.

42.5 In section 24(3), before "medical practitioner" (where twice
occurring), **insert** "registered".

43. *Police Regulation Act 1958*

43.1 In section 7(1), for "legally qualified medical practitioners"
substitute "registered medical practitioners within the
meaning of the **Medical Practice Act 1994**".

43.2 In section 16B(2), for "legally qualified medical
practitioner" **substitute** "registered medical practitioner
(within the meaning of the **Medical Practice Act 1994**)".

43.3 In section 46A(4), for "legally qualified medical
practitioner" **substitute** "registered medical practitioner
within the meaning of the **Medical Practice Act 1994**".

43.4 In section 48(8), for "legally qualified medical practitioners"
substitute "registered medical practitioners within the
meaning of the **Medical Practice Act 1994**".

43.5 In section 64B(2), in the definition of "disability", for
"legally qualified medical practitioners" **substitute**
"registered medical practitioners within the meaning of the
Medical Practice Act 1994".

44. *Professional Boxing Control Act 1985*

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- 44.1 In section 5, in the definition of "Accredited medical officer", for "legally qualified medical practitioner" **substitute** "registered medical practitioner within the meaning of the **Medical Practice Act 1994**".
- 44.2 In section 11—
- (a) in sub-section (1), for "legally qualified medical practitioners" **substitute** "registered medical practitioners within the meaning of the **Medical Practice Act 1994**"; and
 - (b) in sub-section (3), before "medical practitioner" **insert** "registered".
- 44.3 In section 22(1)(b), for "legally qualified medical practitioners" **substitute** "registered medical practitioners within the meaning of the **Medical Practice Act 1994**".

45. *Prostitution Regulation Act 1986*

- 45.1 In section 70, in the proposed section 139E of the **Health Act 1958**, before "medical practitioner" (wherever occurring), **insert** "registered".

46. *Psychologists Registration Act 1987*

- 46.1 In section 4(1)(e), for "legally qualified medical practitioner" **substitute** "registered medical practitioner within the meaning of the **Medical Practice Act 1994**".
- 46.2 In section 50(b), for "legally qualified medical practitioner" **substitute** "registered medical practitioner within the meaning of the **Medical Practice Act 1994**".

47. *Public Sector Management Act 1992*

- 47.1 In section 43(c), for "legally qualified medical practitioner" **substitute** "registered medical practitioner within the meaning of the **Medical Practice Act 1994**".
- 47.2 In Part 2 of Schedule 6—
- (a) in clause 24, before "medical practitioner" (wherever occurring), **insert** "registered"; and
 - (b) in clause 25, before "medical practitioner" (wherever occurring), **insert** "registered".

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Sch. 1 item 48
repealed by
No. 43/1996
s. 65 (Sch.
item 9.2).

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49. Retirement Villages Act 1986

49.1 In section 16(5)(b), for "legally qualified medical practitioners" **substitute** "registered medical practitioners within the meaning of the **Medical Practice Act 1994**".

50. Road Safety Act 1986

50.1 In section 3(1), after the definition of "Registered owner", **insert—**

' **"registered medical practitioner"** means a registered medical practitioner within the meaning of the **Medical Practice Act 1994**;'.

50.2 In section 50(5)(a), for "legally qualified" **substitute** "registered".

50.3 In section 51(10B), for "legally qualified" **substitute** "registered".

50.4 In section 55, for "legally qualified" (wherever occurring), **substitute** "registered".

50.5 In section 56, in the definition of "doctor", for "legally qualified" **substitute** "registered".

50.6 In section 57, for "legally qualified" (wherever occurring), **substitute** "registered".

50.7 In Schedule 2, in clause 52, for "legally qualified" **substitute** "registered".

51. Sentencing Act 1991

51.1 In section 28(2)(b), for "legally qualified medical practitioner" **substitute** "registered medical practitioner within the meaning of the **Medical Practice Act 1994**".

52. State Casual Employees Superannuation Act 1989

52.1 In section 3—

(a) in the definition of "Disability", for "legally qualified" **substitute** "registered"; and

(b) after the definition of "Ordinary account", **insert—**

' **"registered medical practitioner"** means a registered medical practitioner within the meaning of the **Medical Practice Act 1994**;'.

- 52.2 In section 27(4), for "legally qualified" **substitute** "registered".
- 52.3 In section 32, for "legally qualified" (where twice occurring), **substitute** "registered".
- 52.4 In section 34, for "legally qualified" (wherever occurring), **substitute** "registered".

53. State Employees Retirement Benefits Act 1979

- 53.1 In section 2(1)—
- (a) in the definition of "Disability", for "legally qualified" **substitute** "registered"; and
- (b) after the definition of "Prescribed", **insert**—

' **"registered medical practitioner"** means a registered medical practitioner within the meaning of the **Medical Practice Act 1994**;'.

- 53.2 In section 27(b), for "legally qualified" **substitute** "registered".
- 53.3 In section 29(1), before "medical practitioner" (where twice occurring), **insert** "registered".
- 53.4 In section 32, for "legally qualified" **substitute** "registered".
- 53.5 In section 63, for "legally qualified" (wherever occurring), **substitute** "registered".

54. State Superannuation Act 1988

- 54.1 In section 3(1)—
- (a) in the definition of "disability", for "legally qualified" **substitute** "registered"; and
- (b) after the definition of "recognised service", **insert**—

' **"registered medical practitioner"** means a registered medical practitioner within the meaning of the **Medical Practice Act 1994**;'.

- 54.2 In section 83, for "legally qualified" (wherever occurring), **substitute** "registered".

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54.3 In section 84(2), for "legally qualified" **substitute** "registered".

54.4 In section 86, for "legally qualified" (where twice occurring), **substitute** "registered".

55. Summary Offences Act 1966

55.1 In section 42(2), for "legally qualified medical practitioner" **substitute** "registered medical practitioner within the meaning of the **Medical Practice Act 1994**".

56. The Constitution Act Amendment Act 1958

56.1 In section 3(1) in the definition of "registered medical practitioner" for paragraph (a) **substitute**—

"(a) a registered medical practitioner within the meaning of the **Medical Practice Act 1994**; or".

56.2 In section 238(1)(b)(iii), before "medical practitioner" **insert** "registered".

57. Transport Accident Act 1986

57.1 In section 3(1), in the definition of "medical practitioner", for "legally qualified medical practitioner within the meaning of the **Medical Practitioners Act 1970**" **substitute** "registered medical practitioner within the meaning of the **Medical Practice Act 1994**".

57.2 In section 134, in the definition of "medical practitioner", for "legally qualified medical practitioner" **substitute** "registered medical practitioner within the meaning of the **Medical Practice Act 1994**".

58. Transport Superannuation Act 1988

58.1 In section 3(1)—

(a) in the definition of "Disability", for "legally qualified" **substitute** "registered"; and

(b) after the definition of "Prescribed", **insert**—

' "registered medical practitioner" means a registered medical practitioner within the meaning of the **Medical Practice Act 1994**;'.

58.2 In section 38, for "legally qualified" (where twice occurring), **substitute** "registered".

58.3 In section 40, for "legally qualified" (wherever occurring), **substitute** "registered".

59. Workers Compensation Act 1958

59.1 In section 3—

(a) the definition of "medical practitioner" is **repealed**;
and

(b) after the definition of "prescribed" **insert**—

' **"registered medical practitioner"** means a
registered medical practitioner within the
meaning of the **Medical Practice Act 1994**;

59.2 In section 8(2)(b)(iii), for "duly qualified" **substitute** "registered".

59.3 In section 9, under the heading "**The Clauses Referred to**"—

(a) in clause 5A(1)(a), before "medical practitioner" **insert** "registered"; and

(b) in clause 6A, before "medical practitioner" (where twice occurring), **insert** "registered"; and

(c) in clause 7(1)(c), before "medical practitioner" (where twice occurring), **insert** "registered"; and

(d) in clause 7(1)(c)(i), for "duly qualified" **substitute** "registered"; and

(e) in clause 7(1)(c)(iv), for "duly qualified" **substitute** "registered".

59.4 In section 12(1)(a), before "medical practitioner" **insert** "registered".

59.5 In section 19, before "medical practitioner" **insert** "registered".

59.6 In section 20, before "medical practitioner" (where twice occurring), **insert** "registered".

59.7 In section 23, before "medical practitioners" **insert** "registered".

59.8 In section 24—

(a) in sub-section (1), for "legally qualified" **substitute** "registered"; and

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(b) in sub-section (2), before "medical practitioner"
insert "registered".

59.9 In section 26—

(a) in sub-section (2)(c), for "legally qualified"
substitute "registered"; and

(b) in sub-section (2)(d)(i), before "medical practitioner"
insert "registered"; and

(c) in sub-section (2)(d)(v), before "medical practitioner"
insert "registered".

59.10 In section 27—

(a) for "duly qualified" (wherever occurring), **substitute**
"registered"; and

(b) before "medical practitioner" (wherever occurring),
insert "registered".

59.11 In section 73(1)(e), before "medical practitioner" **insert**
"registered".

SCHEDULE 2

AMENDMENTS TO THE NURSES ACT 1993

1. In section 3—
 - (a) the definition of "medical practitioner" is **repealed**;
and
 - (b) after the definition of "registered funded agency"
insert—
' "registered medical practitioner" means a
registered medical practitioner within the
meaning of the **Medical Practice Act 1994**;'.
2. In section 3, in the definition of "unprofessional conduct",
for paragraph (c) **substitute—**
"(c) a finding of guilt of—
 - (i) an indictable offence in Victoria or an
equivalent offence in another jurisdiction; or
 - (ii) an offence where the nurse's ability to continue
to practise as a registered nurse is likely to be
affected because of the finding of guilt, or
where it is not in the public interest to allow the
nurse to continue to practise because of the
finding of guilt; or
 - (ii) an offence against this Act or the regulations."
3. In section 7—
 - (a) in sub-section (1)(c), for "prescribed fee" **substitute**
"fee determined by the Board";
 - (b) in sub-section (2), for paragraph (c), **substitute—**
"(c) that the applicant has been found guilty of—
 - (i) an indictable offence in Victoria an
equivalent offence in another jurisdiction;
or
 - (ii) an offence where the ability of the
applicant to practise is likely to be
affected because of the finding of guilt or
where it is not in the public interest to

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allow the applicant to practise because of the finding of guilt;"

4. In section 17(3)(a) **omit** "or cancellation".
5. In section 21, after sub-section (4) **insert**—

"(5) If a complaint has been referred to and is being dealt with by the Health Services Commissioner, the Commissioner must advise the Board, when the matter is completed, of the outcome of the matter."
6. In section 23(1)(a) **omit** "of".
7. In section 25, for sub-section (2), **substitute**—

"(2) If the Board has suspended the registration of a registered nurse under sub-section (1), it must—

 - (a) immediately notify the nurse of that suspension; and
 - (b) ensure that the matter is investigated as soon as possible after that suspension."
 8. In section 26—
 - (a) in sub-section (1)—
 - (i) **omit** "(1)"; and
 - (ii) for "determine whether or not a preliminary investigation should be conducted into the matter" **substitute** "conduct a preliminary investigation into the matter";
 - (b) sub-section (2) is **repealed**.
 9. In section 27, for sub-section (1) **substitute**—

"(1) The member of the Board appointed to investigate the matter, must give notice of the preliminary investigation to the nurse."
 10. In section 28, before "medical practitioner" (wherever occurring), **insert** "registered".
 11. In section 29, before "medical practitioner" (wherever occurring), **insert** "registered".
 12. In section 32(3), for "formal hearing" **substitute** "preliminary investigation".
 13. In section 34—
 - (a) before "If the Board has" **insert** "(1)";

-
- (b) at the end of the section **insert**—
- "(2) If the Board has suspended the registration of a nurse under sub-section (1), it must—
- (a) immediately notify the nurse of that suspension; and
 - (b) ensure that the matter is investigated as soon as possible after that suspension."

14. In section 37, after paragraph (c) **insert**—

"(d) serve a notice on the complainant by registered post which complies with section 56."

15. In section 44—

 - (a) in paragraph (a), **omit** "or 32(3)";
 - (b) for paragraph (g) **substitute**—

"(g) serve a notice on the complainant by registered post which complies with section 56."

16. In section 47—

 - (a) for paragraph (c) **substitute**—

"(c) if the hearing arises out of a complaint, the identity of the complainant is not to be published or broadcast and the complainant—

 - (i) in the case of a proceeding which has not been closed under paragraph (d), is entitled to be present; and
 - (ii) if not called as a witness, may make submissions with the permission of the Board; and"
 - (b) at the end of paragraph (d) **insert** "and, if the panel has determined that the proceedings are closed, the panel may determine that the identity of any witness giving evidence in the proceedings is not to be published or broadcast."

17. In section 49, for sub-section (1) **insert**—

"(1) After considering all the submissions made to a formal hearing into the ability to practise of a registered nurse, the panel may find that—

 - (a) the ability of the nurse to practise is affected because—

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- (i) of the physical or mental health of the nurse; or
 - (ii) the nurse has an incapacity; or
 - (iii) the nurse is an alcoholic or drug dependent person; or
- (b) the ability of the nurse is not affected."
18. In section 54(3), for "28" (wherever occurring), **substitute** "45".
19. In section 55(1), after paragraph (h) **insert**—
"; and
- (i) if the Board has received a request for information about the person in respect of whom the determination has been made from a nurses registration authority outside Australia, that authority."
20. In section 56, in paragraph (a), after "the matter" **insert** "and if so, of the time and place of the hearing and, in the case of a formal hearing, of the fact that the complainant's identity is not to be published or broadcast".
21. After section 56 **insert**—
"56A. Offence to disclose information identifying complainant
A person must not publish or broadcast or cause to be published or broadcast any report of a formal hearing under this Part which contains information which would enable—
- (a) the complainant to be identified; or
 - (b) if the panel has made a determination prohibiting the publication or broadcast of the identity of a witness, that witness to be identified—
- unless the complainant or witness has, before publication or broadcast, consented to this.
- Penalty: 50 penalty units for a natural person or 100 penalty units for a body corporate."
22. After section 62, **insert**—
"62A. Fraud, forgery and false representation
-

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A person must not—

- (a) fraudulently or by false representation or declaration (either orally or in writing) obtain registration under the Act; or
- (b) fraudulently or by false representation (either orally or in writing) procure any person to be registered under the Act; or
- (c) aid in the commission of an offence under paragraph (a) or (b).

Penalty: 50 penalty units."

23. In section 72(2) **omit** "of" where secondly occurring.

24. In section 74—

(a) in paragraph (b) for "members." **substitute** "members; or";

(b) after paragraph (b), **insert**—

"(c) in the case of an acting member, the occasion for that member so acting had not arisen or had ceased."

25. In section 88(2)(e), for "found there" **insert** "so produced".

26. In section 100(1)(b), for "Parts 1, 3 and 4" **substitute** "Parts I, III and IV".

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NOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 24 March 1994

Legislative Council: 27 April 1994

The long title for the Bill for this Act was "A Bill to make further provision for the registration of medical practitioners, the investigation into the professional conduct or fitness to practise of registered medical practitioners, to regulate the advertising of medical services, to establish the Medical Practitioners Board of Victoria and the Medical Practitioners Board Fund of Victoria, to repeal the **Medical Practitioners Act 1970**, to make various amendments to other Acts and for other purposes."

Constitution Act 1975:

Section 85(5) statement:

Legislative Assembly: 24 March 1994

Legislative Council: 27 April 1994

Absolute majorities:

Legislative Assembly: 22 April 1994

Legislative Council: 4 May 1994

The **Medical Practice Act 1994** was assented to on 17 May 1994 and came into operation as follows:

Sections 1, 2 on 17 May 1994: section 2(1); rest of Act on 1 July 1994:
Government Gazette 23 June 1994 page 1672.

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Notes

2. Table of Amendments

This Version incorporates amendments made to the **Medical Practice Act 1994** by Acts and subordinate instruments.

Financial Management and Audit Acts (Amendment) Act 1995, No. 43/1995

Assent Date: 14.6.95
Commencement Date: S. 22 on 1.7.94: s. 2(3)
Current State: This information relates only to the provision/s amending the **Medical Practice Act 1994**

Medical Practice and Nurses Acts (Amendment) Act 1995, No. 49/1995

Assent Date: 14.6.95
Commencement Date: Ss 6, 7, 9, 12 on 1.7.94: s. 2(1); rest of Act on 14.6.95: s. 2(2)
Current State: All of Act in operation

Mental Health (Amendment) Act 1995, No. 98/1995

Assent Date: 5.12.95
Commencement Date: S. 65(Sch. 1 item 6) on 1.7.96: Government Gazette 27.6.96 p. 1593
Current State: This information relates only to the provision/s amending the **Medical Practice Act 1994**

Trustee and Trustee Companies (Amendment) Act 1995, No. 104/1995

Assent Date: 5.12.95
Commencement Date: 1.1.96: s. 2
Current State: All of Act in operation

Legal Practice Act 1996, No. 35/1996

Assent Date: 6.11.96
Commencement Date: S. 453(Sch. 1 item 57) on 1.1.97: s. 2(3)
Current State: This information relates only to the provision/s amending the **Medical Practice Act 1994**

Births, Deaths and Marriages Registration Act 1996, No. 43/1996

Assent Date: 26.11.96
Commencement Date: S. 65 (Sch. item 9) on 2.10.97: Government Gazette 2. 10. 97 p. 2731
Current State: This information relates only to the provision/s amending the **Medical Practice Act 1994**

Chiropractors Registration Act 1996, No. 63/1996

Assent Date: 17.12.96
Commencement Date: S. 98(Sch. item 2) on 1.7.97: s. 2(3)
Current State: This information relates only to the provision/s amending the **Medical Practice Act 1994**

Osteopaths Registration Act 1996, No. 75/1996

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Assent Date: 17.12.96
Commencement Date: S. 96 on 1.7.97: s. 2(3)
Current State: This information relates only to the provision/s amending the **Medical Practice Act 1994**

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Medical Practice Act 1994**

Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998, No. 52/1998

Assent Date: 2.6.98
Commencement Date: S. 311(Sch. 1 item 59) on 1.7.98: Government Gazette 18.6.98 p. 1512
Current State: This information relates only to the provision/s amending the **Medical Practice Act 1994**

3. Explanatory Details

No entries at date of publication.