

SOUTH AUSTRALIA

**CHIROPRACTORS ACT, 1979**

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Chiropractors Act, 1979, No. 19 of 1979  
[Assented to 15 March 1979]<sup>1</sup>

<sup>1</sup> Came into operation 27 April 1981: *Gaz.* 9 April 1981, p. 1090.

**An Act to provide for the registration of chiropractors and the regulation of the practice of chiropractic; to repeal the Chiropractic Act, 1949; to amend the Physiotherapists Act, 1945-1973; and for other purposes.**

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PRELIMINARY

**Short title**

1. This Act may be cited as the *Chiropractors Act, 1979*.

**Commencement**

2. This Act shall come into operation on a day to be fixed by proclamation.

**Arrangement of Act**

3. This Act is arranged as follows:—

PART I—PRELIMINARY

PART II—THE BOARD

PART III—REGISTRATION

PART IV—REGULATION OF PRACTICE

PART V—APPEALS

PART VI—MISCELLANEOUS

THE SCHEDULE

**Repeal of Chiropractic Act; and amendment of Physiotherapists Act**

4. (1) The *Chiropractic Act, 1949*, is repealed.

(2) The *Physiotherapists Act, 1945-1973*, is amended as shown in the schedule to this Act and, as amended, may be cited as the *Physiotherapists Act, 1945-1979*.

**Interpretation**

5. In this Act, unless the contrary intention appears—

"the Board" means the Chiropractors Board of South Australia established under Part II of this Act:

"chiropractic" includes osteopathy:

"the first Board" means the Board as for the time being constituted during the period of two years from the commencement of this Act and "subsequent Board" has a corresponding meaning:

"registered chiropractor" means a person who is registered under this Act as a chiropractor:

"the Registrar" means the Registrar of the Board appointed under Part II of this Act.

PART II

THE BOARD

**Establishment and incorporation of the Board**

6. (1) There shall be a board entitled the "Chiropractors Board of South Australia".

(2) The Board—

(a) shall be a body corporate with perpetual succession and a common seal;

(b) shall in its corporate name be capable of suing and of being sued;

(c) shall be capable of holding, acquiring, dealing with and disposing of real and personal property;

(d) shall be capable of acquiring or incurring any other rights or liabilities;

and

(e) shall have the powers, rights, duties and functions conferred, imposed or prescribed by or under this Act.

(3) A document is duly executed by the Board if it is sealed with the common seal of the Board and signed by the chairman of the Board.

(4) An apparently genuine document purporting to have been executed in accordance with subsection (3) of this section shall be presumed in any legal proceedings, in the absence of proof to the contrary, to have been duly executed.

**Constitution of the Board**

7. (1) The Board shall consist of six members appointed by the Governor, of whom—

(a) in the case of the first Board, four are persons engaged in the practice of chiropractic as a means of livelihood;

or

(b) in the case of any subsequent Board, four are registered chiropractors elected in accordance with the regulations by registered chiropractors.

(2) If a person is required to be elected to fill a vacancy in the membership of the Board and no person is elected in accordance with the regulations to fill that vacancy, the Governor may appoint a person nominated by the Minister to fill that vacancy, and a person so appointed shall, for all purposes, be deemed to have been duly elected for appointment, and appointed to be, a member of the Board.

(3) A member of the Board shall be appointed by the Governor to be the Chairman of the Board.

**Term and conditions of office**

8. (1) Subject to this Act, a member of the Board shall be appointed—

(a) in the case of the first Board, for a term of office expiring on the expiration of the period of two years from the commencement of this Act;

or

(b) in the case of any subsequent Board, for a term of office of three years,

and upon such conditions as the Governor determines, and, upon the expiration of his term of office shall be eligible for re-appointment.

(2) The Governor may appoint an appropriate person to be a deputy of a member of the Board and that person, while acting in the absence of that member, shall be deemed to be a member of the Board and shall have all the powers, rights and duties of that member.

(3) The Governor may remove a member of the Board from office for—

(a) any breach of, or non-compliance with, the conditions of his appointment;

(b) mental or physical incapacity;

(c) neglect of duty;

or

(d) dishonourable conduct.

(4) The office of a member of the Board shall become vacant if—

(a) he dies;

(b) his term of office expires;

(c) he resigns by written notice addressed to the Minister;

or

(d) he is removed from office by the Governor pursuant to subsection (3) of this section.

(5) Upon the office of a member of the Board becoming vacant, a person shall be appointed in accordance with this Act, to the vacant office, but where the office of a member becomes vacant before the expiration of the term for which he was appointed, the person appointed in his place shall be appointed only for the balance of the term of his predecessor.

**Remuneration and expenses**

9. (1) The members of the Board shall be entitled to receive such remuneration and expenses as may be determined by the Governor.

5.

(2) Any amount to which a member of the Board is entitled under this section shall be paid out of the funds of the Board.

#### **Quorum, etc**

**10.** (1) Four members of the Board shall constitute a quorum of the Board and no business shall be transacted at a meeting of the Board unless a quorum is present.

(2) The chairman of the Board shall preside at a meeting of the Board at which he is present, and in the absence of the chairman from a meeting of the Board, the members of the Board present shall decide who is to preside at that meeting.

(3) A decision carried by the votes of a majority of the members of the Board present at a meeting shall be a decision of the Board.

(4) Each member of the Board shall be entitled to one vote on a matter arising for determination by the Board and the person presiding at the meeting of the Board shall, in the event of an equality of votes, have a second or casting vote.

(5) Subject to this Act, the business of the Board shall be conducted in a manner determined by the Board.

#### **Validity of acts of the Board and immunity of its members**

**11.** (1) An act or proceeding of the Board shall not be invalid by reason only of a vacancy in its membership and, notwithstanding the subsequent discovery of a defect in the election or appointment of a member, an act or proceeding of the Board shall be as valid and effectual as if the member had been duly nominated or appointed.

(2) No personal liability shall attach to a member of the Board for an act or omission by him, or by the Board, in good faith and in the exercise or purported exercise of his or its powers or functions, or in the discharge, or purported discharge, of his or its duties under this Act.

#### **Registrar and officers of Board**

**12.** (1) The Board shall appoint a person approved by the Minister to be Registrar of the Board and may appoint a person to be an officer or servant of the Board.

(2) The Registrar and any other officer or servant of the Board shall be appointed upon such conditions (including remuneration) as the Minister may approve.

#### **Office of the Board**

**13.** The Board may, with the approval of the Minister, establish an office and for that purpose may acquire any interest in real and personal property.

#### **Borrowing by Board**

**14.** (1) The Board may borrow money from the Treasurer or with the consent of the Treasurer, from any other person for the purpose of performing its functions under this Act.

(2) The Treasurer may guarantee any liability incurred with his consent under subsection (1) of this section.

6.

(3) Any liability incurred by the Treasurer under a guarantee given under subsection (2) of this section shall be satisfied out of the General Revenue of the State which is hereby, to the necessary extent, appropriated accordingly.

(4) Any sum paid by the Treasurer under subsection (3) of this section shall, when moneys are properly available for the purpose, be repaid by the Board to the Treasurer and, when so repaid, shall form part of the General Revenue of the State.

#### **Banking accounts**

**15.** (1) The Board may establish accounts at any bank approved by the Treasurer for the purpose of performing its functions under this Act.

(2) An account established under this section shall be operated by cheque signed and countersigned by such persons as the Board may appoint for that purpose.

#### **Investment by Board**

**16.** The Board may invest any of its moneys that are not immediately required for the purposes of this Act in such manner as may be approved by the Treasurer.

#### **Accounts and audit**

**17.** (1) The Board shall cause proper accounts to be kept of its financial affairs and shall in respect of each financial year prepare a statement of accounts in such form as the Treasurer may approve.

(2) The accounts and statement of accounts of the Board shall in respect of each financial year be audited by auditors appointed annually by the Board.

(3) The Auditor-General may at any time audit the accounts of the Board and shall have and may exercise, in respect of the moneys and accounts of the Board and the persons dealing therewith, the powers that are vested in the Auditor-General by the *Audit Act, 1921-1975*, in respect of public accounts and accounting officers.

PART III

REGISTRATION

**Application for registration**

**18.** (1) A person may apply to the Board to be registered under this Act as a chiropractor.

(2) An application for registration under this Act must be made in writing and in the prescribed manner and form and must contain the prescribed information and be accompanied by such papers and documents as are prescribed.

(3) An applicant for registration must, if the Board so requires—

(a) furnish the Board with such further information, papers or documents as it specifies;

and

(b) verify by statutory declaration any information furnished for the purposes of the application.

(4) An applicant for registration must at the time that he makes the application pay the prescribed application fee to the Board.

**Qualifications for registration**

**19.** (1) Subject to this Act, a person is qualified to be registered as a chiropractor, if—

(a) he is of or above the age of eighteen years;

(b) he is a fit and proper person to be so registered;

and

(c) he—

(i) has undertaken a prescribed course of training and has received a degree, diploma, certificate or other academic award for the successful completion of the course;

(ii) has, at an examination arranged by the Board and approved by the Minister, satisfied the Board that he is competent to practise chiropractic in the State;

or

(iii) applies for registration before the expiration of the period of three months from the commencement of this Act, having, from on or before the first day of January, 1978, until the date of his application—

A. practised chiropractic within the State;

B. had his principal place of residence within the State;

8.

and

C. derived his income principally from the practice of chiropractic.

(2) In subsection (1) of this section, a reference to a prescribed course of training includes a reference to a prescribed combination of courses of training or a prescribed course of training which comprises a prescribed combination of subjects.

### **Grant of registration**

**20.** Where due application is made for registration under this Act and the Board is satisfied that the applicant is qualified to be so registered, the Board shall, upon payment of the prescribed registration fee, register the applicant.

### **Renewal of registration**

**21.** (1) Registration under this Act shall, subject to this Act, remain in force until the thirty-first day of December next ensuing after the grant of registration and may from time to time be renewed for successive periods of one year expiring on the thirty-first day of December.

(2) An application for renewal of registration under this Act must be made to the Board in writing and in the prescribed form.

(3) The application must be delivered to the Registrar not earlier than the first day of October and not later than the last day of November preceding the expiry of registration under this Act, but the Board may, if it thinks fit, determine an application notwithstanding that it is delivered out of time.

(4) Where due application is made for renewal of registration under this Act, the Board shall, upon payment of the prescribed renewal fee, renew the registration of the applicant.

### **Register**

**22.** (1) The Registrar shall keep a register of chiropractors.

(2) The register shall in respect of each registered chiropractor contain—

(a) his full name and address;

(b) the date on which he is registered;

(c) particulars of the qualification by virtue of which he is registered;

and

(d) such other particulars (if any), as the Board may think fit or as are prescribed.

(3) The Registrar shall, upon payment of the prescribed fee, enter upon the register any new or additional qualifications that have been acquired by a registered chiropractor and that are of a prescribed kind.

(4) The Registrar shall cause to be removed from the register the name of every registered chiropractor who dies or ceases for any reason to be registered under this Act.

9.

(5) The Registrar shall correct any entry in the register that to his knowledge is not or has ceased to be correct.

(6) The Registrar shall, upon request and payment of the prescribed fee by any person, make the register available for the inspection of that person.

**Certificates of registration**

**23.** The Registrar shall, upon request and payment of the prescribed fee by any person, issue to that person a certificate under his hand and in the prescribed form setting out any registration under this Act.

PART IV

REGULATION OF PRACTICE

**Practice by unregistered persons**

**24.** (1) After the expiration of the period of three months from the commencement of this Act, a person shall not, for fee or reward, manipulate the joints of the human spinal column or its immediate articulations for therapeutic purposes unless—

- (a) he is a registered chiropractor;
- (b) he is a legally qualified medical practitioner or a physiotherapist registered under the *Physiotherapists Act, 1945-1973*;
- (c) he does so in connection with a course of training referred to in section 19 of this Act or approved by the Board;
- (d) he does so in connection with an examination arranged by the Board pursuant to section 19 of this Act;

or

- (e) he is exempted by regulation.

Penalty: Five hundred dollars.

(2) A person shall not cause, suffer or permit his agent or a person employed by him to do any act in contravention of subsection (1) of this section.

Penalty: Five hundred dollars.

(3) For the purposes of subsection (1) of this section a person manipulates the joints referred to in that subsection for fee or reward if he receives a fee or reward for the manipulation or for any service performed, or advice given, in connection with the manipulation.

**Use of certain titles prohibited**

**25.** (1) After the expiration of the period of three months from the commencement of this Act, a person shall not—

- (a) use or display, either alone or in conjunction with any other words or letters, the title or description "chiropractor", "osteopath", "spinal therapist" or "manipulative therapist";

or

- (b) do anything, or cause, suffer or permit anything to be done, that is likely to cause a person reasonably to believe that he is a registered chiropractor,

unless he is a registered chiropractor.

Penalty: Five hundred dollars.

(2) Notwithstanding the provisions of subsection (1) of this section, a physiotherapist registered under the *Physiotherapists Act, 1945-1973*, may use or display the title or description "manipulative therapist".

(3) After the expiration of the period of three months from the commencement of this Act, a registered chiropractor shall not use in his practice as a chiropractor a title or description other than "chiropractor" or "osteopath".

Penalty: Five hundred dollars.

#### **Certain conduct of persons registered under Act cause for disciplinary action**

**26.** If a person registered under this Act—

- (a) has obtained his registration improperly;
- (b) has been convicted, or is guilty, of any offence against this Act, or any offence involving dishonesty;

or

- (c) has practised chiropractic, or conducted himself, unprofessionally,

there shall be proper cause for disciplinary action to be taken against that person under this Act.

#### **Investigations by the Board**

**27.** The Board may, of its own motion, or upon the complaint of any person, cause the conduct of any person registered under this Act to be investigated.

#### **Inspectors**

**28.** (1) The Board may appoint any person approved by the Minister to be an inspector for the purposes of this Act.

(2) For the purpose of determining whether any person registered under this Act is contravening or has contravened any provision of this Act or is unfit to practise chiropractic, an inspector may at any reasonable time enter any premises which are used by that person in connection with that practice and make such inquiries therein as he thinks fit.

#### **Inquiries by Board**

**29.** (1) The Board may, of its own motion or upon the complaint of any person, inquire into the conduct of any person registered under this Act for the purpose of determining whether there is proper cause for disciplinary action to be taken against that person.

(2) If after conducting an inquiry under subsection (1) of this section the Board is satisfied that proper cause exists for disciplinary action, the Board may do one or more of the following:—

- (a) reprimand the person in relation to whom the inquiry was held;
- (b) impose a fine not exceeding five hundred dollars on that person;
- (c) suspend the registration of that person, either absolutely or conditionally, for a period not exceeding three years;

or

- (d) cancel the registration of that person.

**Procedure in relation to inquiries**

**30.** (1) The Board shall give to the person registered under this Act in relation to whom an inquiry is to be held, and to any person upon whose complaint an inquiry is to be held, not less than fourteen days' notice of the time and place at which it intends to conduct the inquiry.

(2) A person to whom notice has been given pursuant to subsection (1) of this section may be represented by counsel at the inquiry and shall be afforded a reasonable opportunity to call or give evidence, to examine or cross-examine witnesses and to make submissions to the Board.

(3) If a person to whom notice has been given pursuant to subsection (1) of this section does not attend at the time and place fixed by the notice the Board may hold the inquiry in his absence.

- (4) The procedure at an inquiry shall be determined by the Board.

**Powers of Board**

**31.** (1) For the purposes of an inquiry under this Part, the Board may—

- (a) by summons signed on behalf of the Board by a member of the Board, require the attendance before the Board of any person whom the Board thinks fit to call before it;
- (b) by summons signed on behalf of the Board by a member of the Board, require the production of any books, papers or documents;
- (c) inspect any books, papers or documents produced before it, and retain them for such reasonable period as it thinks fit, and make copies of any of them or of any of their contents;
- (d) require any person to make an oath or affirmation that he will truly answer all questions put to him by the Board relevant to any matter being inquired into by the Board, which oath or affirmation may be administered by any member of the Board;

or

- (e) require any person appearing before the Board (whether he has been summoned to appear or not) to answer any relevant questions put to him by any member of the Board or by any other person appearing before the Board.

(2) Subject to subsection (3) of this section, if any person—

- (a) who has been served with a summons to attend before the Board neglects or fails to attend in obedience to the summons;
- (b) who has been served with a summons to produce any books, papers or documents, neglects or fails to comply with the summons;
- (c) misbehaves himself before the Board, wilfully insults the Board or any member thereof, or interrupts the proceedings of the Board;

or

- (d) refuses to be sworn or to affirm, or to answer any relevant question, when required to do so by the Board,

he shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

(3) A person shall not be obliged to answer a question put to him by the Board if the answer to that question would tend to incriminate him or to produce any books, papers or documents if their contents would tend to incriminate him.

(4) In the course of an inquiry, the Board may—

- (a) receive in evidence any transcript of evidence in proceedings before a court and draw any conclusions of fact therefrom that it considers proper;

or

- (b) adopt, as in its discretion it considers proper, any findings, decision or judgement of a court that may be relevant to the proceedings.

#### **Costs**

**32.** (1) The Board may, upon the determination of an inquiry under this Part, make such orders as to costs as the Board thinks just and reasonable.

(2) Where the Board makes an order for the payment of any amount against a person registered under this Act and the amount is not paid within the time fixed by the Board, the Board may suspend the registration of that person until the amount is paid, or for such period as the Board thinks fit.

(3) Where the Board has ordered the payment of any amount, that amount shall be recoverable summarily.

14.

PART V

APPEALS

**Appeal**

**33.** (1) A right of appeal to the Supreme Court shall lie against any decision or order of the Board made in the exercise or purported exercise of any of its powers or functions under this Act.

(2) The appeal must be instituted within one month of the making of the decision or order appealed against.

(3) The Supreme Court may, on the hearing of the appeal, do one or more of the following, according to the nature of the case—

- (a) affirm, vary or quash the decision or order appealed against, or substitute, or make in addition, any decision or order that should have been made in the first instance;
- (b) remit the subject matter of the appeal to the Board for further hearing or consideration or for re-hearing;
- (c) make any further or other order as to costs or any other matter that the case requires.

(4) The Board shall, if so required by any person affected by a decision or order made by it, state in writing the reasons for its decision or order.

(5) If the reasons of the Board are not given in writing at the time of making a decision or order and the appellant then requested the Board to state its reasons in writing, the time for instituting the appeal shall run from the time when the appellant receives the written statement of those reasons.

**Operation of order may be suspended**

**34.** (1) Where an order has been made by the Board, and the Board or the Supreme Court is satisfied that an appeal against the order has been instituted, or is intended, it may suspend the operation of the order until the determination of the appeal.

(2) Where the Board has suspended the operation of an order under subsection (1) of this section, the Board may terminate the suspension, and where the Supreme Court has done so, the Supreme Court may terminate the suspension.

PART VI

MISCELLANEOUS

**Evidentiary provisions**

**35.** (1) In any legal proceedings a certificate under the hand of the Registrar that any person is or is not, or was or was not, registered under this Act on the date of, or referred to in, the certificate, or as to any matter contained in a register, shall, in the absence of proof to the contrary, be accepted as proof of the matter so certified.

(2) A document purporting to be a certificate under subsection (1) of this section shall, in the absence of proof to the contrary, be accepted as such in any legal proceedings.

**Service of documents and notices**

**36.** A notice to be given under this Act may be served by post.

**Summary proceedings**

**37.** Proceedings for an offence against this Act shall be disposed of summarily.

**Regulations**

**38.** (1) The Governor may make such regulations as are necessary or expedient for the purposes of, or as are contemplated by, this Act.

(2) Without limiting the generality of subsection (1) of this section, those regulations may—

- (a) provide for, prescribe and regulate the conduct and supervision of examinations, the standard of examinations and the remuneration of examiners;
- (b) prescribe and regulate the standard of premises and equipment to be used in the practice of chiropractic;
- (c) regulate advertising by chiropractors in relation to the practice of chiropractic;
- (d) regulate the conduct of chiropractors in connection with the practice of chiropractic;
- (e) without limiting the conduct that may be treated by the Board as being unprofessional, declare any conduct to be unprofessional;
- (f) prescribe penalties not exceeding two hundred dollars for contravention of any regulation.

THE SCHEDULE

Amendment of the *Physiotherapists Act, 1945-1973*

The *Physiotherapists Act, 1945-1973* is amended—

(a) by inserting after subsection (1) of section 6 the following subsection:—

(1a) A chiropractor registered under the *Chiropractors Act, 1979*, shall not be required to be registered or licensed under this Act;

(b) by striking out from subsection (5) of section 6 the passage "Subsections (2) and (3)" and inserting in lieu thereof the passage "Subsections (1a), (2) and (3)";

and

(c) by striking out section 8a.