



New South Wales

Physiotherapists Regulation 2002

under the

Physiotherapists Act 2001

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Physiotherapists Act 2001*.

CRAIG KNOWLES, M.P.,

Minister for Health

Explanatory note

This Regulation provides for certain matters under the *Physiotherapists Act 2001*, including:

- (a) the conduct of elections for elected members of the Physiotherapists Registration Board (*the Board*), and
- (b) the procedures for meetings of the Board, and
- (c) setting out procedures for appeals on a point of law where the Board deals with a complaint against a registered physiotherapist, and
- (d) prescribing information to be specified in an annual return, and
- (e) prescribing certain offences relating to traffic and parking as offences that are not required to be notified to the Board, and
- (f) setting out procedures for notifying that a registered physiotherapist has become a mentally incapacitated person, and
- (g) creating an offence dealing with advertising of physiotherapy services, and
- (h) prescribing fees for inspection of the Register or recording additional information in the Register.

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Explanatory note

This Regulation is made under the *Physiotherapists Act 2001*, in particular sections 21, 22, 23, 24, 31, 78 and 88 and Schedule 1, and section 133 (the general regulation-making power).

This Regulation comprises matter of a machinery nature.

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Physiotherapists Regulation 2002

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Physiotherapists Regulation 2002*.

2 Commencement

This Regulation commences on 1 December 2002.

3 Definitions

(1) In this Regulation:

the Act means the *Physiotherapists Act 2001*.

(2) In this Regulation, a reference to a form is a reference to form in Schedule 1.

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Part 2 Proceedings of Board

Part 2 Proceedings of Board

4 Proceedings of Board at ordinary meetings

- (1) Unless otherwise determined by the Board, a meeting of the Board is to be held each month.
- (2) However, at least 8 meetings of the Board must be held during any period of 12 months.
- (3) The Registrar must give each member of the Board at least 3 days notice in writing of the time and place of a meeting, together with a copy of the agenda for the meeting.

5 Special and urgent meetings

- (1) The President or any 3 members of the Board may, by notice in writing to the Registrar, call a special meeting of the Board, and any such special meeting is to be held within 7 days after the Registrar receives the notice.
- (2) The President may, by notice in writing to the Registrar, call an urgent meeting of the Board for any purpose, and any such urgent meeting is to be held within 3 days after the Registrar receives the notice.
- (3) The Registrar must give each member of the Board at least 24 hours notice in writing of the time and place of any special or urgent meeting.

6 Lack of quorum

If at the expiration of 30 minutes after the time appointed for any meeting of the Board a quorum is not present, the meeting and all business stand adjourned to the next meeting or to such other date as may be fixed by the members of the Board present.

7 Transaction of business by telephone

- (1) The Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (2) For the purposes of a meeting held in accordance with this clause, the President and each member of the Board have the same voting rights as they have at an ordinary meeting of the Board.

Part 3 Election of members of the Board

8 Manner of conduct of election

For the purposes of section 88 (1) (a) of the Act, the election of elected members of the Board is to be held and conducted in the manner set out in this Part.

9 Returning Officer

The Electoral Commissioner for New South Wales appointed under the *Parliamentary Electorates and Elections Act 1912* is to be the Returning Officer at an election.

10 Notice of election

- (1) The Returning Officer must, as soon as practicable after being notified in writing by the Minister that an election is required to be held, cause to be published in the Gazette and in at least 1 daily newspaper published and circulated in New South Wales a notice that:
 - (a) states that an election is to be held, and
 - (b) invites nominations from registered physiotherapists to fill the vacancies for elected members of the Board, and
 - (c) advises where nomination forms may be obtained, and
 - (d) fixes the close of nominations, and
 - (e) fixes the close of the roll, and
 - (f) fixes the close of the ballot.
- (2) A notification referred to in subclause (1) must be published at least 60 days before the polling day for the election to which it relates.
- (3) The Returning Officer may, by a notice published in accordance with subclauses (1) and (2), fix a later time and date for the close of nominations for an election than those fixed by a previous notice published in relation to the election.

11 Nominations

- (1) A nomination must be made in writing in Form 1 and must set out the following particulars:
 - (a) the full name of the candidate nominated,

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Part 3 Election of members of the Board

- (b) the residential address of that candidate,
 - (c) an endorsement of that candidate's consent to his or her nomination,
 - (d) the full names, residential addresses and signatures of at least 2 nominators, being registered physiotherapists other than that candidate.
- (2) A candidate may withdraw his or her nomination for an election by notification in writing delivered to the Returning Officer at any time until the close of nominations for the election.

12 Candidate information sheet

- (1) A candidate for election may, at any time before the close of nominations for the election, submit to the Returning Officer a statutory declaration in or to the effect of Form 2, containing information intended for inclusion in a candidate information sheet referred to in subclause (2).
- (2) As soon as practicable after the close of nominations for an election, the Returning Officer must, if clause 13 (2) requires that a poll be taken, draw up a candidate information sheet consisting of the information in the statutory declarations, if any, submitted to the Returning Officer by candidates pursuant to subclause (1).
- (3) Despite subclause (2), the Returning Officer may, when drawing up a candidate information sheet, omit or alter such of the information contained in a statutory declaration submitted to the Returning Officer pursuant to subclause (1) as appears necessary or desirable to prevent the sheet containing information that is:
- (a) inappropriate for inclusion in a candidate information sheet, or
 - (b) misleading in a material particular, or
 - (c) of an amount that is excessive having regard to the limitation on the amount of information indicated in Form 2.
- (4) Information concerning candidates must appear on a candidate information sheet referred to in subclause (2) in the same order in which the candidates are listed on the ballot-paper relating to them.

13 Procedure on close of nomination

- (1) If, after the close of nominations, there is not a greater number of persons nominated than are required for election, the Returning Officer is to declare those persons duly elected.
- (2) If, after the close of nominations, the number of persons nominated is greater than the number required for election, a poll must be taken.
- (3) If, after the close of nominations for an election and before the polling day, any candidate dies, the Returning Officer must, in accordance with this Part, invite fresh nominations and fix another date for the poll.

14 Closing of roll

- (1) If, by the close of nominations, the Returning Officer has received more than the required number of nominations, the Returning Officer must immediately notify the Registrar of the Board that a ballot is to be held and that the Returning Officer requires the Registrar to deliver to the Returning Officer within 7 days after the close of the roll:
 - (a) a roll on which a certificate in or to the effect of Form 3 is endorsed and which contains:
 - (i) the name of each person whose name is entered in the register of physiotherapists, and
 - (ii) an address nominated by the person to which a ballot paper in respect of an election may be sent to the person, and
 - (b) a label for each person whose name is entered in the register of physiotherapists as at the close of the roll, of a size suitable for fixing to an envelope, upon which the name and address of that person is written.
- (2) The Registrar is to comply with a requirement of the Returning Officer under subclause (1).

15 Taking of poll

- (1) Where a poll is to be taken, the Returning Officer must:
 - (a) hold a ballot, in the manner prescribed for the purposes of section 82A of the *Parliamentary Electorates and Elections Act 1912*, to determine the order in which the candidates' names are to be entered on the ballot-paper, and

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Part 3 Election of members of the Board

- (b) cause ballot-papers in or to the effect of Form 4 to be drawn up in the manner prescribed by section 83 of the *Parliamentary Electorates and Elections Act 1912*, and
 - (c) cause the ballot-papers to be printed, and
 - (d) cause any candidate information sheet drawn up under clause 12 (2) relating to the candidates to be printed.
- (2) The Returning Officer must, not later than 20 days before the date fixed for a poll, post to the address nominated in the roll referred to in clause 14 (1) of each physiotherapist registered at the date of the close of nominations to which the poll relates:
- (a) a ballot-paper printed in accordance with subclause (1) and initialled by the Returning Officer, and
 - (b) a business reply envelope addressed to the Returning Officer, and
 - (c) where appropriate, a candidate information sheet referred to in clause 12 (2) relating to the candidates included in the poll.
- (3) A business reply envelope mentioned in subclause (2) must contain on the rear flap spaces for the insertion of a voter's name, address and signature.
- (4) A physiotherapist who has been forwarded a ballot-paper and a business reply envelope under subclause (2) and who wishes to vote must complete the ballot-paper in accordance with the directions printed on the ballot-paper and must send or deliver to the Returning Officer the ballot-paper enclosed and sealed in the business reply envelope addressed to the Returning Officer.
- (5) The Returning Officer may, on written application made to the Returning Officer, and if satisfied that a ballot-paper has been lost or destroyed, supply a duplicate ballot-paper to the person to whom the lost or destroyed ballot-paper was issued.
- (6) An election is not invalid because:
- (a) a person whose name is on the Register did not receive a ballot-paper, or
 - (b) the Returning Officer did not receive a ballot-paper sent to the Returning Officer.

16 Examination of envelopes

- (1) The Returning Officer must, as soon as practicable after the receipt of a business reply envelope purporting to contain a ballot-paper, examine the envelope for the purpose of deciding whether to accept or reject the envelope.
- (2) The Returning Officer is to reject a business reply envelope purporting to contain a ballot-paper issued in respect of an election if:
 - (a) the business reply envelope does not have legibly marked on its rear flap the name, address and signature that appear to the Returning Officer to be those of a registered physiotherapist, or
 - (b) the business reply envelope is not sealed, or
 - (c) the business reply envelope is not received by the Returning Officer at or before the time stated on ballot-papers issued in respect of the election as the time at or before which the business reply envelope is to be so received.

17 Dealing with ballot papers

- (1) On the day fixed for the poll, the Returning Officer must:
 - (a) open all the business reply envelopes received (except those envelopes rejected under clause 16 (2)) and extract the ballot-papers and, without unfolding them, place the ballot-papers in the ballot-box, and
 - (b) mix the ballot-papers and draw the ballot-papers at random, and
 - (c) unfold the ballot-papers and count, in accordance with clause 18, the votes recorded on the ballot-papers (except any ballot-papers rejected under subclause (2)).
 - (2) The Returning Officer is to reject a ballot-paper as being informal if:
 - (a) the ballot-paper contains any matter by which the voter may be identified, or
 - (b) the ballot-paper is not completed in accordance with the directions printed on the ballot-paper.
 - (3) Each candidate may appoint, in writing, a scrutineer to represent that candidate.
 - (4) A scrutineer appointed in accordance with subclause (3) may be present during the examination, opening and counting of votes by the Returning Officer.
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Clause 18 Physiotherapists Regulation 2002

Part 3 Election of members of the Board

18 Method of voting and counting

- (1) At an election a voter is:
- (a) required to record a vote for 3 candidates, and
 - (b) permitted to record a vote for as many more candidates as the voter pleases,
- so as to indicate, in such manner as is required by this Part, the candidates for whom the voter votes and the order of the voter's preference for them.
- (2) Ballot-papers must be counted, and the candidates who are elected determined, by the Returning Officer according to an optional multi-preferential system in which the first, second and third preference votes (represented by the numbers "1", "2" and "3", respectively, marked on the ballot-paper) are regarded as primary votes.

19 Report of election

When he or she first ascertains the result of an election, the Returning Officer must furnish a report, in writing, of the result to the Minister and must cause the result to be published in the Gazette and in at least one daily newspaper published or circulated in New South Wales.

Part 4 Miscellaneous

20 Practice status to be specified in annual return

For the purposes of section 21 (1) (l) of the Act, the return must specify the following information:

- (a) whether the registered physiotherapist has practised as a physiotherapist during the return period,
- (b) if so, the period of practice, and whether the physiotherapist practised full-time or part-time,
- (c) if the physiotherapist practised part-time, the number of hours per week approximately that the physiotherapist practised,
- (d) whether the physiotherapist engaged in any university or other tertiary studies related to the practise of physiotherapy during the return period.

21 Excluded offences

- (1) Sections 21 (1) (a), 22 (1) (a) and 23 of the Act do not apply in respect of an excluded offence.
- (2) An excluded offence is not relevant for the purposes of clause 4 of Schedule 1 to the Act.
- (3) In this clause, *excluded offence* means any offence relating to the parking of motor vehicles or any offence under the road transport legislation (within the meaning of the *Road Transport (General) Act 1999*) except for the following offences:
 - (a) an offence under section 42 of the *Road Transport (Safety and Traffic Management) Act 1999* relating to driving a motor vehicle upon a public street negligently if the registered physiotherapist is, by way of penalty, sentenced to imprisonment or fined a sum of not less than \$200,
 - (b) an offence under section 42 of the *Road Transport (Safety and Traffic Management) Act 1999* relating to driving a motor vehicle on a road or road related area, furiously or recklessly or at a speed or in a manner which is dangerous to the public,
 - (c) any offence under section 19 (2) of the *Road Transport (General) Act 1999* (which relates to refusing to produce a driver licence, or to state name and home address, when required or stating a false name and home address),

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Part 4 Miscellaneous

- (d) any offence under section 12 (1) of the *Road Transport (Safety and Traffic Management) Act 1999* (which relates to driving etc while under the influence of alcohol or any other drug),
- (e) any offence under section 25A (1), (2) or (3) of the *Road Transport (Driver Licensing) Act 1998* (which relates to driving while unlicensed),
- (f) any offence under section 70 of the *Road Transport (Safety and Traffic Management) Act 1999* (which relates to failing to stop after an accident),
- (g) any offence under section 9 of the *Road Transport (Safety and Traffic Management) Act 1999* (which relates to presence of prescribed concentration of alcohol in person's blood),
- (h) any offence under section 43 of the *Road Transport (Safety and Traffic Management) Act 1999* (which relates to menacing driving),
- (i) any other offence under the road transport legislation if the court orders the disqualification of the registered physiotherapist from holding a driver licence.

22 Notice of mental incapacity of registered physiotherapist

- (1) For the purposes of section 24 of the Act, the person required to cause notice of mental incapacity to be given to the Registrar is:
 - (a) in the case of a registered physiotherapist who is a mentally incapacitated person and becomes a patient at an institution because of that incapacity—the medical superintendent of the institution, or
 - (b) in the case of a registered physiotherapist who is a mentally incapacitated person because of being a protected person under the *Protected Estates Act 1983*—the Protective Commissioner.
- (2) Notice for the purposes of section 24 of the Act is to be given by telephone within 1 day, and by post within 7 days, after the registered physiotherapist is admitted to the institution or becomes a protected person, and is to specify the following:
 - (a) the name and residential address of the physiotherapist,
 - (b) the date on which the physiotherapist was admitted to the institution at which the physiotherapist is a patient or became a protected person.

(3) In this clause:

patient means a person to whom medical treatment or other medical services are provided.

23 Form of complaint

For the purposes of section 31 (2) (g) of the Act, the Registrar is prescribed as a person whose complaint need not be verified by statutory declaration.

24 Appeal on point of law

An appeal referred to in section 78 of the Act is to be made:

- (a) by causing a notice of appeal, specifying the grounds on which the appeal is made, to be given to the Chairperson (or, if a Deputy Chairperson is nominated under section 78 (1), to the Deputy Chairperson so nominated), and
- (b) by causing a copy of the notice of appeal to be given to each other party to the proceedings from which the appeal has arisen.

25 Advertising

A person must not advertise physiotherapy services in a manner that:

- (a) is false, misleading or deceptive, or
- (b) creates an unjustified expectation of beneficial treatment, or
- (c) promotes the unnecessary or inappropriate use of physiotherapy services.

Maximum penalty: 10 penalty units.

26 Fee for inspection of Register

For the purposes of clause 21 (5) of Schedule 1 to the Act, the prescribed fee (being the maximum amount for an inspection of the Register) is \$20.

27 Fee for additional information to be recorded in Register

For the purposes of clause 22 (3) of Schedule 1 to the Act, the prescribed fee (being the fee for recording additional particulars in the Register) is \$20.

Schedule 1 Forms

(Clause 3 (2))

Form 1 Nomination for elected physiotherapist

(Clause 11)

(Physiotherapists Act 2001)

To the Returning Officer,

We, being registered physiotherapists, hereby nominate

*
[full name]

of
[residential address]

as a candidate at the election of elected members referred to in section 88 (1) of the *Physiotherapists Act 2001*

.....
.....

[full name] [signature] [residential address]

[must be completed by at least 2 registered physiotherapists other than the candidate]

I,of
[full name] [address]

consent to the nomination and do solemnly and sincerely declare that I am a registered physiotherapist.

I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900*.

Declared at this day of 20 , before me:

.....
[a Justice of the Peace] [candidate's signature]

* The person nominated must be a registered physiotherapist.

Form 2 Statutory declaration in support of candidature for election to the Board

(Clause 12)

(Physiotherapists Act 2001)

I, of
[full name] [residential address]

do solemnly and sincerely declare:

- 1. My year of graduation as a physiotherapist was
- 2. I hold the following qualifications:

.....
[academic and professional qualifications]

3. The information relevant to my candidature is:
.....
.....
.....
.....
.....
.....
[information relevant to candidature—not more than 6 lines]

I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900*.

Declared at this day of 20 , before me:

.....
[a Justice of the Peace]

.....
[candidate's signature]

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Schedule 1

Forms

**Form 3 Certificate of Registrar of the Physiotherapists
Registration Board**

(Clause 14)

(Physiotherapists Act 2001)

I,
Registrar of the Physiotherapists Registration Board, certify that the attached roll
containing pages commencing with the name
and ending with the name
is a true and correct roll of persons registered as physiotherapists under the
Physiotherapists Act 2001 as at
on the day of 20

.....
[Registrar]

.....
[date]

Form 4 Ballot-paper

(Clause 15)

(Physiotherapists Act 2001)

Election of members of the Physiotherapists Registration Board

READ CAREFULLY THE FOLLOWING INSTRUCTIONS BEFORE VOTING

1. You must vote for at least 3 candidates in the order of your preference by placing the number "1", "2" or "3" in the squares opposite the names of those candidates. You may, if you so desire, indicate your preference for the remaining candidates using the numbers "4", "5" and so on.
2. After marking your ballot-paper, fold it so that the vote cannot be seen, then place it in the Reply envelope and fasten this envelope. **PRINT YOUR NAME AND ADDRESS AND SIGN YOUR NAME IN THE SPACE PROVIDED ON THE BACK FLAP OF THE ENVELOPE.** Post or deliver the Reply envelope so that it will be received by the Returning Officer **NOT LATER THAN** *[indicate date and time of close of ballot]*.
3. Your vote will not be accepted unless your particulars and signature are shown on the back flap of the Reply envelope. Remember to show the registered address to which voting materials were posted.
4. Only one ballot-paper is to be enclosed in each Reply envelope, otherwise the ballot-papers will not be accepted.
5. Any correspondence concerning this election should be addressed to the Electoral Commissioner for New South Wales.

BY AUTHORITY
