

*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

I. P. K. VIDLER,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 28 September, 1967.*

## New South Wales



ANNO SEXTO DECIMO

**ELIZABETHÆ II REGINÆ**

\*\*\*\*\*

**Act No.           , 1967.**

An Act to make further provisions relating to the prohibition of the treatment of certain diseases by persons not registered under the Medical Practitioners Act, 1938-1965; to provide for the establishment of a Cancer Investigation Committee; for these and other purposes to amend the Medical Practitioners Act, 1938-1965, and the New South Wales State Cancer Council Act, 1955-1965; and for purposes connected therewith.

BE

*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

**B**E it enacted by the Queen's Most Excellent Majesty, by  
and with the advice and consent of the Legislative  
Council and Legislative Assembly of New South Wales in  
Parliament assembled, and by the authority of the same, as  
5 follows :—

**1.** (1) This Act may be cited as the "Medical Short title  
Practitioners and New South Wales State Cancer Council and citation.  
(Amendment) Act, 1967".

(2) The Medical Practitioners Act, 1938, as amended  
10 by subsequent Acts and by this Act, may be cited as the  
Medical Practitioners Act, 1938–1967.

(3) The New South Wales State Cancer Council  
Act, 1955, as amended by subsequent Acts and by this Act,  
may be cited as the New South Wales State Cancer Council  
15 Act, 1955–1967.

**2.** The Medical Practitioners Act, 1938–1965, is Amendment  
amended— of Act No.  
37, 1938.

(a) by omitting from section 39A the words "subsection Sec. 39A.  
two of section 41A, section 41B and paragraph (a) (Provisions  
20 of subsection two of section forty-two" and by applicable  
inserting in lieu thereof the words "subsections two to corpora-  
and four of section 41A, section 41B and paragraphs tions.)  
(a) and (a1) of subsection two of section  
forty-two";

(b) (i) by omitting from subsection two of section Sec. 41A.  
41A the words "to a penalty not exceeding (Unregis-  
25 two hundred dollars" and by inserting in lieu tered person  
thereof the words "on indictment to a penalty not to treat  
not exceeding two thousand dollars or to certain  
30 imprisonment for any term not exceeding two diseases.)  
years, or to both such penalty and such  
imprisonment";

(ii)



*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

- (ii) by inserting in subsection three of the same section after the words "prosecuted under" the words "subsection two of";
- 5 (iii) by inserting at the end of the same section the following new subsection :—
- (4) (a) No person shall sell or supply to or give any person any substance or article in respect of which there is a representation by the manufacturer, seller, supplier or giver thereof indicating expressly or impliedly that such substance or article has or is likely to have curative or alleviating powers when taken or used in the treatment of, or may be taken or used for the prevention of, cancer unless the sale, supply or giving is to or on behalf of a person who has been expressly authorised by a registered person to take or use such substance or article.
- 10
- 15
- (b) In this subsection—
- 20 "representation" includes advertisement, recommendation, statement or document including circular, label, notice, wrapper or any announcement made orally or by means of producing or transmitting light or sound;
- 25 "sell" includes offer or attempt to sell or have in possession for sale or expose for sale;
- 30 "substance" includes drug, mixture, medicine, compound, nostrum or device.
- (c) Any person who contravenes any of the provisions of this subsection shall be guilty of an offence and shall be liable on conviction on indictment to a penalty not exceeding two thousand dollars or to imprisonment
- 35

*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

imprisonment for any term not exceeding two years, or to both such penalty and such imprisonment.

- 5 (c) (i) by omitting paragraph (a) of subsection two of section forty-two and by inserting in lieu thereof the following paragraphs :—

Sec. 42 (2).  
(No unregistered person to advertise.)

10 (a) Any person, not registered under this Act, who advertises or holds himself out to be entitled, qualified, able or willing to diagnose, treat, alleviate or cure any disease to which section 41A of this Act applies shall be guilty of an offence and shall be liable on conviction on indictment to a penalty not exceeding two thousand dollars or to imprisonment for any term not exceeding two years, or to both such penalty and such imprisonment.

15 (a1) Any person, not registered under this Act, who advertises or holds himself out to be entitled, qualified, able or willing to practise medicine or surgery in any of its branches or to give or perform any medical or surgical advice, service, attendance or operation shall where such advertisement or holding out is not of the nature referred to in paragraph (a) of this subsection be guilty of an offence and shall be liable on conviction to a penalty not exceeding one hundred dollars.

20 (ii) by inserting in subsection three of the same section after the word "advertisement" the words "or holding out";

- 25 (d) by inserting next after subsection one of section forty-three the following new subsections :—

Sec. 43.  
(Penalties for certain offences.)

35 (1A) Where an offence has been committed against subsection two or four of section 41A or paragraph (a) or (a1) of subsection two of section forty-two of this Act, by a body corporate, each director



*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

5 director of the body corporate at the time when the  
offence was committed and each person holding a  
managerial post or concerned with the manage-  
ment of the body corporate at that time, whether  
any such person is described as manager, sales  
manager, secretary, accountant or otherwise, shall  
be guilty of the like offence unless he proves that  
he exercised all due diligence to prevent the act or  
omission constituting the offence.

10 (1B) Any term of imprisonment imposed on  
any person by a court in respect of the non-payment  
of a penalty for an offence against subsection two  
or four of section 41A or paragraph (a) of sub-  
section two of section forty-two of this Act, may be  
15 ordered to commence at the expiration of any term  
of imprisonment imposed on that person for the  
same offence in addition to that penalty.

3. The New South Wales State Cancer Council Act, Amendment  
1955-1965, is amended— of Act No.  
25, 1955.

20 (a) by inserting next after section ten the following new  
section :— New sec.  
10A.

10A. (1) The Council may from time to time Cancer  
Investigation  
Committee.  
25 establish a Cancer Investigation Committee (here-  
inafter referred to as the "committee"). The  
provisions of subsection two of section ten of this  
Act shall not apply to the establishment of the  
committee.

(2) The functions of the committee shall  
be—

30 (a) whenever it deems necessary, to arrange for  
the investigation and testing of the content,  
method of preparation, efficacy, or use of  
any substance or article in respect of which  
there is a representation by the manufac-  
35 turer, seller, supplier or giver thereof  
indicating

*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

- 5 indicating expressly or impliedly that such substance or article has or is likely to have curative or alleviating powers when taken or used in the treatment of, or may be taken or used for the prevention of, cancer;
- 10 (b) whenever it deems necessary, to cause investigation to be made and to ascertain whether any person sells, supplies or gives away any substance or article in respect of which there is a representation by the manufacturer, seller, supplier or giver thereof indicating expressly or impliedly that such substance or article has or is likely to have curative or alleviating powers when taken or used in the treatment of, or may be taken or used for the prevention of, cancer;
- 15 (c) where any person, not being a legally qualified medical practitioner, advertises, or holds himself out to be entitled, qualified, able or willing to diagnose, treat, alleviate or cure cancer and the committee considers it advisable to investigate the matter the committee may make such investigation as it deems necessary;
- 20 (d) to furnish reports to the Council in respect of the functions carried out by it pursuant to the foregoing provisions of this subsection.
- 25 (3) For the purpose of any investigation under this Act the committee—
- 30 (a) shall have the same powers and authority to summon witnesses, and receive evidence, as are conferred upon a Commissioner appointed under Division 1 of Part II of the Royal Commissions Act, 1923, as amended
- 35



*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

5 amended by subsequent Acts; and the said  
Act, subsection two of section eleven,  
section thirteen and Division 2 of Part II  
excepted, shall, mutatis mutandis, apply to  
any witness;

(b) may use the services of and obtain advice  
from any person;

10 (c) may require any person not being a legally  
qualified medical practitioner to furnish to  
the committee—

15 (i) such sample as the committee may  
require of any substance or article  
in his possession in respect of which  
there is a representation of the  
nature referred to in subsection two  
of this section or which is used by  
any person to whom paragraph (c)  
of that subsection applies in connec-  
20 tion with the diagnosis, treatment,  
alleviation or cure of cancer;

(ii) the whole of the particulars concern-  
ing the formula, recipe, constitution  
or nature of any such substance or  
article; and

25 (iii) such additional information as the  
committee may require concerning  
the composition, method of prepara-  
tion and the use to which any such  
substance or article is put.

30 (4) Any person who fails to comply with  
any requisition of the committee pursuant to  
paragraph (c) of subsection three of this section  
shall be guilty of an offence against this Act and  
shall be liable on summary conviction to a penalty  
35 not exceeding four hundred dollars.

(5)

*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

5 (5) The Council shall recommend to the Minister the action which it considers should be taken consequent upon the exercise and performance by the committee of its functions and powers under this section.

10 (6) In this section "representation", "sell" and "substance" have the meanings ascribed thereto respectively in subsection four of section 41A of the Medical Practitioners Act, 1938, as amended by subsequent Acts.

(b) by inserting next after paragraph (c) of subsection four of section eleven the following new paragraph :—

15 (d) in meeting the costs of investigations conducted by a Cancer Investigation Committee.

Sec. 11.  
(New South  
Wales State  
Cancer  
Council  
Account.)

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1967

[10c]



No. , 1967.

---

## A BILL

To make further provisions relating to the prohibition of the treatment of certain diseases by persons not registered under the Medical Practitioners Act, 1938-1965; to provide for the establishment of a Cancer Investigation Committee; for these and other purposes to amend the Medical Practitioners Act, 1938-1965, and the New South Wales State Cancer Council Act, 1955-1965; and for purposes connected therewith.

[MR JAGO—12 September, 1967.]

---

BE

*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

**B**E it enacted by the Queen's Most Excellent Majesty, by  
and with the advice and consent of the Legislative  
Council and Legislative Assembly of New South Wales in  
Parliament assembled, and by the authority of the same, as  
5 follows :—

**1.** (1) This Act may be cited as the "Medical Short title  
Practitioners and New South Wales State Cancer Council and citation.  
(Amendment) Act, 1967".

(2) The Medical Practitioners Act, 1938, as amended  
10 by subsequent Acts and by this Act, may be cited as the  
Medical Practitioners Act, 1938–1967.

(3) The New South Wales State Cancer Council  
Act, 1955, as amended by subsequent Acts and by this Act,  
may be cited as the New South Wales State Cancer Council  
15 Act, 1955–1967.

**2.** The Medical Practitioners Act, 1938–1965, is Amendment  
amended— of Act No.  
37, 1938.

(a) by omitting from section 39A the words "subsection Sec. 39A.  
two of section 41A, section 41B and paragraph (a) (Provisions  
20 of subsection two of section forty-two" and by applicable  
inserting in lieu thereof the words "subsections two to corpora-  
and four of section 41A, section 41B and paragraphs tions.)  
(a) and (a1) of subsection two of section  
forty-two";

25 (b) (i) by omitting from subsection two of section Sec. 41A.  
41A the words "to a penalty not exceeding (Unregis-  
two hundred dollars" and by inserting in lieu tered person  
thereof the words "on indictment to a penalty not to treat  
not exceeding two thousand dollars or to certain  
30 imprisonment for any term not exceeding two diseases.)  
years, or to both such penalty and such  
imprisonment";

(ii)



*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

(ii) by inserting in subsection three of the same section after the words "prosecuted under" the words "subsection two of";

5 (iii) by inserting at the end of the same section the following new subsection :—

10 (4) (a) No person shall sell or supply to or give any person any substance or article in respect of which there is a representation by the manufacturer, seller, supplier or giver thereof indicating expressly or impliedly that such substance or article has or is likely to have curative or alleviating powers when taken or used in the treatment of, or may be taken or used for the prevention of, cancer unless  
15 the sale, supply or giving is to or on behalf of a person who has been expressly authorised by a registered person to take or use such substance or article.

(b) In this subsection—

20 "representation" includes advertisement, recommendation, statement or document including circular, label, notice, wrapper or any announcement made orally or by means of producing or  
25 transmitting light or sound;

"sell" includes offer or attempt to sell or have in possession for sale or expose for sale;

30 "substance" includes drug, mixture, medicine, compound, nostrum or device.

35 (c) Any person who contravenes any of the provisions of this subsection shall be guilty of an offence and shall be liable on conviction on indictment to a penalty not exceeding two thousand dollars or to imprisonment

*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

imprisonment for any term not exceeding two years, or to both such penalty and such imprisonment.

- 5 (c) (i) by omitting paragraph (a) of subsection two of section forty-two and by inserting in lieu thereof the following paragraphs :— Sec. 42 (2).  
(No unregistered person to advertise.)

10 (a) Any person, not registered under this Act, who advertises or holds himself out to be entitled, qualified, able or willing to diagnose, treat, alleviate or cure any disease to which section 41A of this Act applies shall be guilty of an offence and shall be liable on conviction on indictment to a penalty not exceeding two thousand dollars or to imprisonment for any term not exceeding two years, or to both such penalty and such imprisonment.

15 (a1) Any person, not registered under this Act, who advertises or holds himself out to be entitled, qualified, able or willing to practise medicine or surgery in any of its branches or to give or perform any medical or surgical advice, service, attendance or operation shall where such advertisement or holding out is not of the nature referred to in paragraph (a) of this subsection be guilty of an offence and shall be liable on conviction to a penalty not exceeding one hundred dollars.

- 20 (ii) by inserting in subsection three of the same section after the word "advertisement" the words "or holding out";

- 25 (d) by inserting next after subsection one of section forty-three the following new subsections :— Sec. 43.  
(Penalties for certain offences.)

30 (1A) Where an offence has been committed against subsection two or four of section 41A or paragraph (a) or (a1) of subsection two of section forty-two of this Act, by a body corporate, each director



*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

5 director of the body corporate at the time when the  
offence was committed and each person holding a  
managerial post or concerned with the manage-  
ment of the body corporate at that time, whether  
any such person is described as manager, sales  
manager, secretary, accountant or otherwise, shall  
be guilty of the like offence unless he proves that  
he exercised all due diligence to prevent the act or  
omission constituting the offence.

10 (1B) Any term of imprisonment imposed on  
any person by a court in respect of the non-payment  
of a penalty for an offence against subsection two  
or four of section 41A or paragraph (a) of sub-  
15 section two of section forty-two of this Act, may be  
ordered to commence at the expiration of any term  
of imprisonment imposed on that person for the  
same offence in addition to that penalty.

**3.** The New South Wales State Cancer Council Act, Amendment  
1955-1965, is amended— of Act No.  
25, 1955.

20 (a) by inserting next after section ten the following new  
section :— New sec.  
10A.

25 10A. (1) The Council may from time to time  
establish a Cancer Investigation Committee (here-  
inafter referred to as the "committee"). The  
provisions of subsection two of section ten of this  
Act shall not apply to the establishment of the  
committee. Cancer  
Investigation  
Committee.

(2) The functions of the committee shall  
be—

30 (a) whenever it deems necessary, to arrange for  
the investigation and testing of the content,  
method of preparation, efficacy, or use of  
any substance or article in respect of which  
35 there is a representation by the manufac-  
turer, seller, supplier or giver thereof  
indicating

*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

- 5 indicating expressly or impliedly that such substance or article has or is likely to have curative or alleviating powers when taken or used in the treatment of, or may be taken or used for the prevention of, cancer;
- 10 (b) whenever it deems necessary, to cause investigation to be made and to ascertain whether any person sells, supplies or gives away any substance or article in respect of which there is a representation by the manufacturer, seller, supplier or giver thereof indicating expressly or impliedly that such substance or article has or is likely to have curative or alleviating powers when taken or used in the treatment of, or may be taken or used for the prevention of, cancer;
- 15 (c) where any person, not being a legally qualified medical practitioner, advertises, or holds himself out to be entitled, qualified, able or willing to diagnose, treat, alleviate or cure cancer and the committee considers it advisable to investigate the matter the committee may make such investigation as it deems necessary;
- 20 (d) to furnish reports to the Council in respect of the functions carried out by it pursuant to the foregoing provisions of this subsection.
- 25
- 30 (3) For the purpose of any investigation under this Act the committee—
- 35 (a) shall have the same powers and authority to summon witnesses, and receive evidence, as are conferred upon a Commissioner appointed under Division 1 of Part II of the Royal Commissions Act, 1923, as amended



---

*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

---

5 amended by subsequent Acts; and the said  
Act, subsection two of section eleven,  
section thirteen and Division 2 of Part II  
excepted, shall, mutatis mutandis, apply to  
any witness;

(b) may use the services of and obtain advice  
from any person;

10 (c) may require any person not being a legally  
qualified medical practitioner to furnish to  
the committee—

15 (i) such sample as the committee may  
require of any substance or article  
in his possession in respect of which  
there is a representation of the  
nature referred to in subsection two  
of this section or which is used by  
any person to whom paragraph (c)  
of that subsection applies in connec-  
20 tion with the diagnosis, treatment,  
alleviation or cure of cancer;

(ii) the whole of the particulars concern-  
ing the formula, recipe, constitution  
or nature of any such substance or  
article; and

25 (iii) such additional information as the  
committee may require concerning  
the composition, method of prepara-  
tion and the use to which any such  
substance or article is put.

30 (4) Any person who fails to comply with  
any requisition of the committee pursuant to  
paragraph (c) of subsection three of this section  
shall be guilty of an offence against this Act and  
shall be liable on summary conviction to a penalty  
35 not exceeding four hundred dollars.

(5)

*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

5 (5) The Council shall recommend to the Minister the action which it considers should be taken consequent upon the exercise and performance by the committee of its functions and powers under this section.

10 (6) In this section "representation", "sell" and "substance" have the meanings ascribed thereto respectively in subsection four of section 41A of the Medical Practitioners Act, 1938, as amended by subsequent Acts.

(b) by inserting next after paragraph (c) of subsection four of section eleven the following new paragraph :—

Sec. 11.  
(New South  
Wales State  
Cancer  
Council  
Account.)

15 (d) in meeting the costs of investigations conducted by a Cancer Investigation Committee.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1967

[10c]



**MEDICAL PRACTITIONERS AND NEW SOUTH WALES STATE  
CANCER COUNCIL (AMENDMENT) BILL, 1967**

---

**EXPLANATORY NOTE**

THE object of this Bill is to control cancer quackery and the treatment of cancer and to provide for the establishment of means whereby cancer remedies may be investigated.

Ancillary and consequential matters contained in the Bill include—

- (a) the amendment of section 41A of the Medical Practitioners Act, 1938–1965, so as to provide—
  - (i) a prohibition against the selling or giving away of any medicine, device or the like which is represented to have curative powers when used in the treatment of cancer ;
  - (ii) a prohibition against a person, not registered under that Act, holding himself out to be able or willing to treat or prescribe treatment for cancer ;
  - (iii) increased penalties for offences against section 41A of that Act ; and
- (b) the amendment of the New South Wales State Cancer Council Act, 1955–1965, so as—
  - (i) to empower the Council to establish a Cancer Investigation Committee ;
  - (ii) to define the functions of that committee ;
  - (iii) to define the powers of that committee in the conduct of investigations ;
  - (iv) to provide that the Council shall recommend to the Minister the action which should be taken pursuant to the reports of that committee in any case ; and
  - (v) to provide that the costs of investigations conducted by that committee shall be met from the New South Wales State Cancer Council Account.

PROOF

STATE OF NEW YORK  
OFFICE OF THE COMPTROLLER

REPORT

The Comptroller has the honor to acknowledge the receipt of your letter of the 10th inst. in relation to the above-captioned matter. In reply to inform you that the same has been referred to the proper authorities for their consideration. The result of their action will be communicated to you as soon as it is known.

Very respectfully,  
Comptroller



PROOF

No. , 1967.

---

## A BILL

To make further provisions relating to the prohibition of the treatment of certain diseases by persons not registered under the Medical Practitioners Act, 1938-1965; to provide for the establishment of a Cancer Investigation Committee; for these and other purposes to amend the Medical Practitioners Act, 1938-1965, and the New South Wales State Cancer Council Act, 1955-1965; and for purposes connected therewith.

[MR JAGO—12 September, 1967.]

---

BE



*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

**B**E it enacted by the Queen's Most Excellent Majesty, by  
and with the advice and consent of the Legislative  
Council and Legislative Assembly of New South Wales in  
Parliament assembled, and by the authority of the same, as  
5 follows :—

1. (1) This Act may be cited as the "Medical Practitioners and New South Wales State Cancer Council (Amendment) Act, 1967". Short title and citation.

(2) The Medical Practitioners Act, 1938, as amended  
10 by subsequent Acts and by this Act, may be cited as the  
Medical Practitioners Act, 1938-1967.

(3) The New South Wales State Cancer Council  
Act, 1955, as amended by subsequent Acts and by this Act,  
15 may be cited as the New South Wales State Cancer Council  
Act, 1955-1967.

2. The Medical Practitioners Act, 1938-1965, is amended— is Amendment Act No. 37, 1938.

(a) by omitting from section 39A the words "subsection two of section 41A, section 41B and paragraph (a) of subsection two of section forty-two" and by inserting in lieu thereof the words "subsections two and four of section 41A, section 41B and paragraphs (a) and (a1) of subsection two of section forty-two"; Sec. 39A. (Provisions applicable to corporations.)

(b) (i) by omitting from subsection two of section 41A the words "to a penalty not exceeding two hundred dollars" and by inserting in lieu thereof the words "on indictment to a penalty not exceeding two thousand dollars or to imprisonment for any term not exceeding two years, or to both such penalty and such imprisonment"; Sec. 41A. (Unregistered person not to treat certain diseases.)

(ii)



---

*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

---

(ii) by inserting in subsection three of the same section after the words "prosecuted under" the words "subsection two of";

5 (iii) by inserting at the end of the same section the following new subsection :—

(4) (a) No person shall sell or supply to or give any person any substance or article in respect of which there is a representation by the manufacturer, seller, supplier or giver thereof indicating expressly or impliedly that such substance or article has or is likely to have curative or alleviating powers when taken or used in the treatment of, or may be taken or used for the prevention of, cancer unless the sale, supply or giving is to or on behalf of a person who has been expressly authorised by a registered person to take or use such substance or article.

(b) In this subsection—  
20 "representation" includes advertisement, recommendation, statement or document including circular, label, notice, wrapper or any announcement made orally or by means of producing or transmitting light or sound;

25 "sell" includes offer or attempt to sell or have in possession for sale or expose for sale;

30 "substance" includes drug, mixture, medicine, compound, nostrum or device.

(c) Any person who contravenes any of the provisions of this subsection shall be guilty of an offence and shall be liable on conviction on indictment to a penalty not exceeding two thousand dollars or to imprisonment

35



*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

imprisonment for any term not exceeding two years, or to both such penalty and such imprisonment.

- 5 (c) (i) by omitting paragraph (a) of subsection two of section forty-two and by inserting in lieu thereof the following paragraphs :—

Sec. 42 (2).  
(No unregistered person to advertise.)

10 (a) Any person, not registered under this Act, who advertises or holds himself out to be entitled, qualified, able or willing to diagnose, treat, alleviate or cure any disease to which section 41A of this Act applies shall be guilty of an offence and shall be liable on conviction on indictment to a penalty not exceeding two thousand dollars or to imprisonment for any term not exceeding two years, or to both such penalty and such imprisonment.

15 (a1) Any person, not registered under this Act, who advertises or holds himself out to be entitled, qualified, able or willing to practise medicine or surgery in any of its branches or to give or perform any medical or surgical advice, service, attendance or operation shall where such advertisement or holding out is not of the nature referred to in paragraph (a) of this subsection be guilty of an offence and shall be liable on conviction to a penalty not exceeding one hundred dollars.

- 20 (ii) by inserting in subsection three of the same section after the word "advertisement" the words "or holding out";

- 25 (d) by inserting next after subsection one of section forty-three the following new subsections :—

Sec. 43.  
(Penalties for certain offences.)

30 (1A) Where an offence has been committed against subsection two or four of section 41A or paragraph (a) or (a1) of subsection two of section forty-two of this Act, by a body corporate, each director



*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

5 director of the body corporate at the time when the  
offence was committed and each person holding a  
managerial post or concerned with the manage-  
ment of the body corporate at that time, whether  
any such person is described as manager, sales  
manager, secretary, accountant or otherwise, shall  
be guilty of the like offence unless he proves that  
he exercised all due diligence to prevent the act or  
omission constituting the offence.

10 (1B) Any term of imprisonment imposed on  
any person by a court in respect of the non-payment  
of a penalty for an offence against subsection two  
or four of section 41A or paragraph (a) of sub-  
section two of section forty-two of this Act, may be  
15 ordered to commence at the expiration of any term  
of imprisonment imposed on that person for the  
same offence in addition to that penalty.

3. The New South Wales State Cancer Council Act, Amendment  
1955-1965, is amended— of Act No.  
25, 1955.

20 (a) by inserting next after section ten the following new  
section :— New sec.  
10A.

10A. (1) The Council may from time to time  
establish a Cancer Investigation Committee (here-  
inafter referred to as the "committee"). The  
25 provisions of subsection two of section ten of this  
Act shall not apply to the establishment of the  
committee. Cancer  
Investigation  
Committee.

(2) The functions of the committee shall  
be—

30 (a) whenever it deems necessary, to arrange for  
the investigation and testing of the content,  
method of preparation, efficacy, or use of  
any substance or article in respect of which  
35 there is a representation by the manufac-  
turer, seller, supplier or giver thereof  
indicating



---

*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

---

- 5 indicating expressly or impliedly that such  
substance or article has or is likely to have  
curative or alleviating powers when taken  
or used in the treatment of, or may be taken  
or used for the prevention of, cancer;
- 10 (b) whenever it deems necessary, to cause  
investigation to be made and to ascertain  
whether any person sells, supplies or gives  
away any substance or article in respect of  
which there is a representation by the  
manufacturer, seller, supplier or giver  
thereof indicating expressly or impliedly  
that such substance or article has or is  
likely to have curative or alleviating powers  
when taken or used in the treatment of, or  
may be taken or used for the prevention of,  
cancer;
- 15 (c) where any person, not being a legally  
qualified medical practitioner, advertises, or  
holds himself out to be entitled, qualified,  
able or willing to diagnose, treat, alleviate  
or cure cancer and the committee considers  
it advisable to investigate the matter the  
committee may make such investigation as  
it deems necessary;
- 20 (d) to furnish reports to the Council in respect  
of the functions carried out by it pursuant  
to the foregoing provisions of this sub-  
section.
- 25 (3) For the purpose of any investigation  
under this Act the committee—
- 30 (a) shall have the same powers and authority to  
summon witnesses, and receive evidence, as  
are conferred upon a Commissioner  
appointed under Division 1 of Part II of  
the Royal Commissions Act, 1923, as  
35 amended



---

*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

---

5 amended by subsequent Acts; and the said Act, subsection two of section eleven, section thirteen and Division 2 of Part II excepted, shall, mutatis mutandis, apply to any witness;

(b) may use the services of and obtain advice from any person;

10 (c) may require any person not being a legally qualified medical practitioner to furnish to the committee—

15 (i) such sample as the committee may require of any substance or article in his possession in respect of which there is a representation of the nature referred to in subsection two of this section or which is used by any person to whom paragraph (c) of that subsection applies in connection with the diagnosis, treatment, alleviation or cure of cancer;

20 (ii) the whole of the particulars concerning the formula, recipe, constitution or nature of any such substance or article; and

25 (iii) such additional information as the committee may require concerning the composition, method of preparation and the use to which any such substance or article is put.

30 (4) Any person who fails to comply with any requisition of the committee pursuant to paragraph (c) of subsection three of this section shall be guilty of an offence against this Act and shall be liable on summary conviction to a penalty not exceeding four hundred dollars.

(5)



*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

5 (5) The Council shall recommend to the Minister the action which it considers should be taken consequent upon the exercise and performance by the committee of its functions and powers under this section.

10 (6) In this section "representation", "sell" and "substance" have the meanings ascribed thereto respectively in subsection four of section 41A of the Medical Practitioners Act, 1938, as amended by subsequent Acts.

(b) by inserting next after paragraph (c) of subsection four of section eleven the following new paragraph :—

Sec. 11.  
(New South  
Wales State  
Cancer  
Council  
Account.)

15 (d) in meeting the costs of investigations conducted by a Cancer Investigation Committee.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1967



New South Wales



ANNO SEXTO DECIMO

**ELIZABETHÆ II REGINÆ**

\*\*\*\*\*

**Act No. 49, 1967.**

An Act to make further provisions relating to the prohibition of the treatment of certain diseases by persons not registered under the Medical Practitioners Act, 1938-1965; to provide for the establishment of a Cancer Investigation Committee; for these and other purposes to amend the Medical Practitioners Act, 1938-1965, and the New South Wales State Cancer Council Act, 1955-1965; and for purposes connected therewith. [Assented to, 17th October, 1967.]

BE

*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title  
and citation.

1. (1) This Act may be cited as the "Medical Practitioners and New South Wales State Cancer Council (Amendment) Act, 1967".

(2) The Medical Practitioners Act, 1938, as amended by subsequent Acts and by this Act, may be cited as the Medical Practitioners Act, 1938–1967.

(3) The New South Wales State Cancer Council Act, 1955, as amended by subsequent Acts and by this Act, may be cited as the New South Wales State Cancer Council Act, 1955–1967.

Amendment  
of Act No.  
37, 1938.

2. The Medical Practitioners Act, 1938–1965, is amended—

Sec. 39A.  
(Provisions  
applicable  
to corpora-  
tions.)

(a) by omitting from section 39A the words "subsection two of section 41A, section 41B and paragraph (a) of subsection two of section forty-two" and by inserting in lieu thereof the words "subsections two and four of section 41A, section 41B and paragraphs (a) and (a1) of subsection two of section forty-two";

Sec. 41A.  
(Unregis-  
tered person  
not to treat  
certain  
diseases.)

(b) (i) by omitting from subsection two of section 41A the words "to a penalty not exceeding two hundred dollars" and by inserting in lieu thereof the words "on indictment to a penalty not exceeding two thousand dollars or to imprisonment for any term not exceeding two years, or to both such penalty and such imprisonment";

(ii)



---

*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

---

- (ii) by inserting in subsection three of the same section after the words "prosecuted under" the words "subsection two of";
- (iii) by inserting at the end of the same section the following new subsection :—

(4) (a) No person shall sell or supply to or give any person any substance or article in respect of which there is a representation by the manufacturer, seller, supplier or giver thereof indicating expressly or impliedly that such substance or article has or is likely to have curative or alleviating powers when taken or used in the treatment of, or may be taken or used for the prevention of, cancer unless the sale, supply or giving is to or on behalf of a person who has been expressly authorised by a registered person to take or use such substance or article.

(b) In this subsection—

"representation" includes advertisement, recommendation, statement or document including circular, label, notice, wrapper or any announcement made orally or by means of producing or transmitting light or sound;

"sell" includes offer or attempt to sell or have in possession for sale or expose for sale;

"substance" includes drug, mixture, medicine, compound, nostrum or device.

(c) Any person who contravenes any of the provisions of this subsection shall be guilty of an offence and shall be liable on conviction on indictment to a penalty not exceeding two thousand dollars or to imprisonment

---

*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

---

imprisonment for any term not exceeding two years, or to both such penalty and such imprisonment.

Sec. 42 (2).  
(No unregistered person to advertise.)

- (c) (i) by omitting paragraph (a) of subsection two of section forty-two and by inserting in lieu thereof the following paragraphs :—

(a) Any person, not registered under this Act, who advertises or holds himself out to be entitled, qualified, able or willing to diagnose, treat, alleviate or cure any disease to which section 41A of this Act applies shall be guilty of an offence and shall be liable on conviction on indictment to a penalty not exceeding two thousand dollars or to imprisonment for any term not exceeding two years, or to both such penalty and such imprisonment.

(a1) Any person, not registered under this Act, who advertises or holds himself out to be entitled, qualified, able or willing to practise medicine or surgery in any of its branches or to give or perform any medical or surgical advice, service, attendance or operation shall where such advertisement or holding out is not of the nature referred to in paragraph (a) of this subsection be guilty of an offence and shall be liable on conviction to a penalty not exceeding one hundred dollars.

- (ii) by inserting in subsection three of the same section after the word "advertisement" the words "or holding out";

Sec. 43.  
(Penalties for certain offences.)

- (d) by inserting next after subsection one of section forty-three the following new subsections :—

(1A) Where an offence has been committed against subsection two or four of section 41A or paragraph (a) or (a1) of subsection two of section forty-two of this Act, by a body corporate, each director



---

*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

---

director of the body corporate at the time when the offence was committed and each person holding a managerial post or concerned with the management of the body corporate at that time, whether any such person is described as manager, sales manager, secretary, accountant or otherwise, shall be guilty of the like offence unless he proves that he exercised all due diligence to prevent the act or omission constituting the offence.

(1B) Any term of imprisonment imposed on any person by a court in respect of the non-payment of a penalty for an offence against subsection two or four of section 41A or paragraph (a) of subsection two of section forty-two of this Act, may be ordered to commence at the expiration of any term of imprisonment imposed on that person for the same offence in addition to that penalty.

**3.** The New South Wales State Cancer Council Act, 1955-1965, is amended—

Amendment  
of Act No.  
25, 1955.

(a) by inserting next after section ten the following new section :—

New sec.  
10A.

10A. (1) The Council may from time to time establish a Cancer Investigation Committee (hereinafter referred to as the "committee"). The provisions of subsection two of section ten of this Act shall not apply to the establishment of the committee.

Cancer  
Investigation  
Committee.

(2) The functions of the committee shall be—

(a) whenever it deems necessary, to arrange for the investigation and testing of the content, method of preparation, efficacy, or use of any substance or article in respect of which there is a representation by the manufacturer, seller, supplier or giver thereof  
indicating

---

*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

---

- indicating expressly or impliedly that such substance or article has or is likely to have curative or alleviating powers when taken or used in the treatment of, or may be taken or used for the prevention of, cancer;
- (b) whenever it deems necessary, to cause investigation to be made and to ascertain whether any person sells, supplies or gives away any substance or article in respect of which there is a representation by the manufacturer, seller, supplier or giver thereof indicating expressly or impliedly that such substance or article has or is likely to have curative or alleviating powers when taken or used in the treatment of, or may be taken or used for the prevention of, cancer;
  - (c) where any person, not being a legally qualified medical practitioner, advertises, or holds himself out to be entitled, qualified, able or willing to diagnose, treat, alleviate or cure cancer and the committee considers it advisable to investigate the matter the committee may make such investigation as it deems necessary;
  - (d) to furnish reports to the Council in respect of the functions carried out by it pursuant to the foregoing provisions of this subsection.

(3) For the purpose of any investigation under this Act the committee—

- (a) shall have the same powers and authority to summon witnesses, and receive evidence, as are conferred upon a Commissioner appointed under Division 1 of Part II of the Royal Commissions Act, 1923, as amended



---

*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

---

amended by subsequent Acts; and the said Act, subsection two of section eleven, section thirteen and Division 2 of Part II excepted, shall, mutatis mutandis, apply to any witness;

- (b) may use the services of and obtain advice from any person;
  - (c) may require any person not being a legally qualified medical practitioner to furnish to the committee—
    - (i) such sample as the committee may require of any substance or article in his possession in respect of which there is a representation of the nature referred to in subsection two of this section or which is used by any person to whom paragraph (c) of that subsection applies in connection with the diagnosis, treatment, alleviation or cure of cancer;
    - (ii) the whole of the particulars concerning the formula, recipe, constitution or nature of any such substance or article; and
    - (iii) such additional information as the committee may require concerning the composition, method of preparation and the use to which any such substance or article is put.
- (4) Any person who fails to comply with any requisition of the committee pursuant to paragraph (c) of subsection three of this section shall be guilty of an offence against this Act and shall be liable on summary conviction to a penalty not exceeding four hundred dollars.

(5)

---

*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

---

(5) The Council shall recommend to the Minister the action which it considers should be taken consequent upon the exercise and performance by the committee of its functions and powers under this section.

(6) In this section "representation", "sell" and "substance" have the meanings ascribed thereto respectively in subsection four of section 41A of the Medical Practitioners Act, 1938, as amended by subsequent Acts.

Sec. 11.  
(New South  
Wales State  
Cancer  
Council  
Account.)

(b) by inserting next after paragraph (c) of subsection four of section eleven the following new paragraph :—

(d) in meeting the costs of investigations conducted by a Cancer Investigation Committee.

---

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1967



*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

I. P. K. VIDLER,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 11 October, 1967.*

## New South Wales



ANNO SEXTO DECIMO

**ELIZABETHÆ II REGINÆ**

\*\*\*\*\*

**Act No. 49, 1967.**

An Act to make further provisions relating to the prohibition of the treatment of certain diseases by persons not registered under the Medical Practitioners Act, 1938-1965; to provide for the establishment of a Cancer Investigation Committee; for these and other purposes to amend the Medical Practitioners Act, 1938-1965, and the New South Wales State Cancer Council Act, 1955-1965; and for purposes connected therewith. [Assented to, 17th October, 1967.]

BE

*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

G. R. CRAWFORD,  
*Chairman of Committees of the Legislative Assembly.*

*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title  
and citation.

**1.** (1) This Act may be cited as the "Medical Practitioners and New South Wales State Cancer Council (Amendment) Act, 1967".

(2) The Medical Practitioners Act, 1938, as amended by subsequent Acts and by this Act, may be cited as the Medical Practitioners Act, 1938–1967.

(3) The New South Wales State Cancer Council Act, 1955, as amended by subsequent Acts and by this Act, may be cited as the New South Wales State Cancer Council Act, 1955–1967.

Amendment  
of Act No.  
37, 1938.

**2.** The Medical Practitioners Act, 1938–1965, is amended—

Sec. 39A.  
(Provisions  
applicable  
to corpora-  
tions.)

(a) by omitting from section 39A the words "subsection two of section 41A, section 41B and paragraph (a) of subsection two of section forty-two" and by inserting in lieu thereof the words "subsections two and four of section 41A, section 41B and paragraphs (a) and (a1) of subsection two of section forty-two";

Sec. 41A.  
(Unregis-  
tered person  
not to treat  
certain  
diseases.)

(b) (i) by omitting from subsection two of section 41A the words "to a penalty not exceeding two hundred dollars" and by inserting in lieu thereof the words "on indictment to a penalty not exceeding two thousand dollars or to imprisonment for any term not exceeding two years, or to both such penalty and such imprisonment";

(ii)



---

*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

---

(ii) by inserting in subsection three of the same section after the words "prosecuted under" the words "subsection two of";

(iii) by inserting at the end of the same section the following new subsection :—

(4) (a) No person shall sell or supply to or give any person any substance or article in respect of which there is a representation by the manufacturer, seller, supplier or giver thereof indicating expressly or impliedly that such substance or article has or is likely to have curative or alleviating powers when taken or used in the treatment of, or may be taken or used for the prevention of, cancer unless the sale, supply or giving is to or on behalf of a person who has been expressly authorised by a registered person to take or use such substance or article.

(b) In this subsection—

"representation" includes advertisement, recommendation, statement or document including circular, label, notice, wrapper or any announcement made orally or by means of producing or transmitting light or sound;

"sell" includes offer or attempt to sell or have in possession for sale or expose for sale;

"substance" includes drug, mixture, medicine, compound, nostrum or device.

(c) Any person who contravenes any of the provisions of this subsection shall be guilty of an offence and shall be liable on conviction on indictment to a penalty not exceeding two thousand dollars or to imprisonment



---

*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

---

imprisonment for any term not exceeding two years, or to both such penalty and such imprisonment.

Sec. 42 (2).  
(No unregistered person to advertise.)

(c) (i) by omitting paragraph (a) of subsection two of section forty-two and by inserting in lieu thereof the following paragraphs :—

(a) Any person, not registered under this Act, who advertises or holds himself out to be entitled, qualified, able or willing to diagnose, treat, alleviate or cure any disease to which section 41A of this Act applies shall be guilty of an offence and shall be liable on conviction on indictment to a penalty not exceeding two thousand dollars or to imprisonment for any term not exceeding two years, or to both such penalty and such imprisonment.

(a1) Any person, not registered under this Act, who advertises or holds himself out to be entitled, qualified, able or willing to practise medicine or surgery in any of its branches or to give or perform any medical or surgical advice, service, attendance or operation shall where such advertisement or holding out is not of the nature referred to in paragraph (a) of this subsection be guilty of an offence and shall be liable on conviction to a penalty not exceeding one hundred dollars.

(ii) by inserting in subsection three of the same section after the word "advertisement" the words "or holding out";

Sec. 43.  
(Penalties for certain offences.)

(d) by inserting next after subsection one of section forty-three the following new subsections :—

(1A) Where an offence has been committed against subsection two or four of section 41A or paragraph (a) or (a1) of subsection two of section forty-two of this Act, by a body corporate, each director



---

*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

---

director of the body corporate at the time when the offence was committed and each person holding a managerial post or concerned with the management of the body corporate at that time, whether any such person is described as manager, sales manager, secretary, accountant or otherwise, shall be guilty of the like offence unless he proves that he exercised all due diligence to prevent the act or omission constituting the offence.

(1B) Any term of imprisonment imposed on any person by a court in respect of the non-payment of a penalty for an offence against subsection two or four of section 41A or paragraph (a) of subsection two of section forty-two of this Act, may be ordered to commence at the expiration of any term of imprisonment imposed on that person for the same offence in addition to that penalty.

**3.** The New South Wales State Cancer Council Act, 1955-1965, is amended—

Amendment  
of Act No.  
25, 1955.

(a) by inserting next after section ten the following new section :—

New sec.  
10A.

10A. (1) The Council may from time to time establish a Cancer Investigation Committee (hereinafter referred to as the "committee"). The provisions of subsection two of section ten of this Act shall not apply to the establishment of the committee.

Cancer  
Investigation  
Committee.

(2) The functions of the committee shall be—

(a) whenever it deems necessary, to arrange for the investigation and testing of the content, method of preparation, efficacy, or use of any substance or article in respect of which there is a representation by the manufacturer, seller, supplier or giver thereof indicating



---

*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

---

- indicating expressly or impliedly that such substance or article has or is likely to have curative or alleviating powers when taken or used in the treatment of, or may be taken or used for the prevention of, cancer;
- (b) whenever it deems necessary, to cause investigation to be made and to ascertain whether any person sells, supplies or gives away any substance or article in respect of which there is a representation by the manufacturer, seller, supplier or giver thereof indicating expressly or impliedly that such substance or article has or is likely to have curative or alleviating powers when taken or used in the treatment of, or may be taken or used for the prevention of, cancer;
  - (c) where any person, not being a legally qualified medical practitioner, advertises, or holds himself out to be entitled, qualified, able or willing to diagnose, treat, alleviate or cure cancer and the committee considers it advisable to investigate the matter the committee may make such investigation as it deems necessary;
  - (d) to furnish reports to the Council in respect of the functions carried out by it pursuant to the foregoing provisions of this subsection.

(3) For the purpose of any investigation under this Act the committee—

- (a) shall have the same powers and authority to summon witnesses, and receive evidence, as are conferred upon a Commissioner appointed under Division 1 of Part II of the Royal Commissions Act, 1923, as amended



---

*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

---

amended by subsequent Acts; and the said Act, subsection two of section eleven, section thirteen and Division 2 of Part II excepted, shall, mutatis mutandis, apply to any witness;

(b) may use the services of and obtain advice from any person;

(c) may require any person not being a legally qualified medical practitioner to furnish to the committee—

(i) such sample as the committee may require of any substance or article in his possession in respect of which there is a representation of the nature referred to in subsection two of this section or which is used by any person to whom paragraph (c) of that subsection applies in connection with the diagnosis, treatment, alleviation or cure of cancer;

(ii) the whole of the particulars concerning the formula, recipe, constitution or nature of any such substance or article; and

(iii) such additional information as the committee may require concerning the composition, method of preparation and the use to which any such substance or article is put.

(4) Any person who fails to comply with any requisition of the committee pursuant to paragraph (c) of subsection three of this section shall be guilty of an offence against this Act and shall be liable on summary conviction to a penalty not exceeding four hundred dollars.

(5)

---

*Medical Practitioners and New South Wales State Cancer Council  
(Amendment).*

---

(5) The Council shall recommend to the Minister the action which it considers should be taken consequent upon the exercise and performance by the committee of its functions and powers under this section.

(6) In this section "representation", "sell" and "substance" have the meanings ascribed thereto respectively in subsection four of section 41A of the Medical Practitioners Act, 1938, as amended by subsequent Acts.

Sec. 11.  
(New South  
Wales State  
Cancer  
Council  
Account.)

(b) by inserting next after paragraph (c) of subsection four of section eleven the following new paragraph :—

(d) in meeting the costs of investigations conducted by a Cancer Investigation Committee.

*In the name and on behalf of Her Majesty I assent to this Act.*

A. R. CUTLER,  
Governor.

*Government House,  
Sydney, 17th October, 1967.*