PLEASE NOTE

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This document is not the official version of the Act. The Act and the amendments as printed under the authority of the Queen’s Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the Table of Public Acts.

If you find any errors or omissions in this consolidation, please contact:

Legislative Counsel Office
Tel: (902) 368-4291
Email: legislation@gov.pe.ca
CHAPTER R-10.1

REGULATED HEALTH PROFESSIONS ACT

PART I - INTERPRETATION

1. In this Act,

(a) “Advisory Council” means the Health Professions Advisory Council established under section 63;

(b) “Canadian jurisdiction” means a Canadian jurisdiction as defined in the Labour Mobility Act R.S.P.E.I. 1988, Cap. L-1.1;

(c) “college” means a college established or continued under clause 2(1)(b) for a regulated health profession;

(d) “council” means the council of a college;

(e) “deputy registrar” means the deputy registrar appointed under subsection 10(5);

(f) “extra-provincial certification”, in relation to an individual, means a certificate, license, registration or other form of official recognition issued by a professional regulatory body regulating the individual’s health profession in a Canadian jurisdiction, other than Prince Edward Island, that attests that the individual is qualified and authorized to engage in the practice of the health profession and to use a title relating to the practice of the health profession;

(g) “health care” means any care, service or procedure, including the sale or dispensing of a drug, device, equipment or another item pursuant to a prescription,

(i) to diagnose, treat or maintain an individual’s health,

(ii) to prevent disease or injury or promote health, or

(iii) that affects the structure or function of a body;

(h) “health profession” means a profession in which a person exercises skill or judgment in providing health care;

(i) “health profession corporation” means a corporation that holds a valid permit to offer the services of one or more members of a regulated health profession;

(j) “member”, except where the context requires otherwise, means an individual who is registered in a register of a regulated health profession;

(k) “Minister” means the Minister of Health and Wellness;
multi-disciplinary college

permit

public representative

register

registrar

regulated health profession

reserved activity

Designation of a health profession

Designation

2. (1) The Lieutenant Governor in Council may, by regulation,
(a) designate a health profession as a regulated health profession for the purposes of this Act;
(b) in respect of a regulated health profession, do one of the following:
   (i) continue an existing association or body corporate as the college for that profession,
   (ii) establish the college for that profession,
   (iii) establish the college for that profession and any other health profession,
   (iv) establish that an existing college, which regulates another health profession, is also the college for that profession;
(c) prescribe the name of the college for a regulated health profession;
(d) prescribe the scope of practice of a regulated health profession;
(e) provide for any other matter the Lieutenant Governor in Council considers necessary or advisable for the establishment or continuance of a college.
(2) Regulations made in respect of a multi-disciplinary college under subclause (1)(b)(iii) or (iv) may apply to
  (a) each regulated health profession separately; or
  (b) two or more of the regulated health professions jointly.

(3) Where a health profession has been designated as a regulated health profession under this section, no person shall practise the regulated health profession except as a member of the college for the regulated health profession. 2013,c.48,s.2.

3. A college continued or established pursuant to clause 2(1)(b) is a body corporate. 2013,c.48,s.3.

4. (1) A college shall carry out its objects and govern its members in a manner that serves and protects the public interest.

(2) A college has the following objects:
  (a) to regulate the practice of its regulated health profession and govern its members in accordance with this Act, the regulations and bylaws;
  (b) to develop, establish, maintain, monitor compliance with and enforce standards of academic or technical achievement and qualification for registration as a member of the regulated health profession;
  (c) to develop, establish, maintain, monitor and enforce standards of practice to enhance the quality of practice by its members;
  (d) to develop, establish, maintain, monitor compliance with and enforce standards respecting continuing education for its members, and develop rules respecting exemptions from the continuing education requirements in circumstances the college considers appropriate;
  (e) to develop, establish and maintain programs that provide information for the public about the regulated health profession and that assist persons in exercising their rights under this Act and the regulations and bylaws;
  (f) to develop, establish and maintain programs to promote the ability of its members to respond to changes in practice environments, advances in technology and other emerging issues;
  (g) to promote and enhance relations between the college and its members, other colleges, key stakeholders and the public;
  (h) to promote inter-professional collaboration with other colleges; and
  (i) to administer the college’s affairs and perform its duties and carry out its powers in accordance with this Act, the regulations and the bylaws.
(3) A college shall not set professional fees, provide guidelines for professional fees or negotiate professional fees on behalf of some or all of its members.

(4) A college may issue practice directives to its members for the purposes of subsection (2). 2013,c.48,s.4.

5. In addition to any power conferred by this or any other Act, a college may do such things as it considers appropriate to advance the purposes of the college and, without limiting the generality of the foregoing, may
   (a) purchase, take in, lease, exchange, hire, construct and otherwise acquire and hold, sell, mortgage, hypothecate, lease out or otherwise deal with any real or personal property;
   (b) draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, warrants and other negotiable and transferable instruments;
   (c) expend the moneys of the college in the advancement of its objects and the interests of the regulated health professions in the manner it considers expedient;
   (d) establish and maintain the offices and agencies that it considers expedient;
   (e) invest and deal with any moneys and funds of the college that are not immediately required, in the manner that it considers expedient;
   (f) improve, manage, develop, exchange, dispose of or otherwise deal with the real or personal property of the college;
   (g) borrow money for the use of the college on its credit, limit or increase the amount to be borrowed, issue bonds, debentures, debenture stock and other securities on the credit of the college and pledge or sell such securities for the sums or at prices that it considers expedient; and
   (h) do such things as are incidental or necessary to the exercise of the powers referred to in clauses (a) to (g). 2013,c.48,s.5.

6. The membership of a college comprises those individuals whose names appear on the register of the college and who have paid the fees provided for in the bylaws. 2013,c.48,s.6.

7. (1) For each college established or continued pursuant to clause 2(1)(b) there is hereby established a governing body called the council.

(2) The council of a college shall
   (a) manage and conduct the business and affairs of the college; and
   (b) exercise the college’s rights, powers and privileges in the college’s name and on the college’s behalf.
(3) The Minister may, by order, appoint persons to the first council for a college established under subclause 2(1)(b)(ii) or (iii), to hold office for a term specified by the Minister.

(4) Subject to subsection (5), a council shall consist of at least 6 persons who are either
   (a) members of the college, nominated in accordance with the college’s bylaws and appointed by the Minister; or
   (b) public representatives appointed by the Lieutenant Governor in Council.

(5) At least 1/3 of the members of a council shall be public representatives appointed under clause (4)(b).

(6) For the purposes of a multi-disciplinary college established pursuant to subclause 2(1)(b)(iii) or (iv), the council shall consist of
   (a) in respect of the members to be appointed under clause (4)(a), at least one member from each regulated health profession that is governed by the college, nominated by the persons carrying on that regulated health profession and appointed by the Minister; and
   (b) the public representatives appointed by the Lieutenant Governor in Council in accordance with clause (4)(b).

(7) A person shall not serve as a public representative on more than one council or committee of a college at any one time.

(8) The term of office of a member of a council shall not exceed three years.

(9) A member of a council may serve more than one term of office but shall not serve for more than six consecutive years.

(10) Notwithstanding subsection (8), a member of a council continues to hold office after the expiry of the member’s term until
    (a) the member is re-elected, reappointed or resigns, or a successor is elected or appointed; or
    (b) the expiry of three months, whichever occurs first.

(11) For the purposes of subsection (9), “consecutive” means that the member has held office without a break or interruption lasting more than four months. 2013,c.48,s.7.

8. (1) A council may act despite a vacancy in its membership as long as a quorum is maintained.

   (2) A majority of the members of a council, at least one of whom must be a public representative, constitutes a quorum.
(3) The members of a council shall be paid remuneration and expenses in accordance with the bylaws of the council.

(4) The members of a council shall elect from among their number the officers of the college that are specified in the bylaws, in the manner and for the terms specified in the bylaws. 2013,c.48,s.8.

9. (1) The appointment of a public representative appointed under clause 7(4)(b)
(a) may be revoked by the Lieutenant Governor in Council
   (i) at any time, or
   (ii) pursuant to a request made by the council under subsection (2); and
(b) is revoked at the time
   (i) the member resigns from the council by notice in writing delivered to the council, or
   (ii) the member ceases to reside in the province.

(2) A council may request that the Minister revoke the appointment of a member appointed under clause 7(4)(a), or that the Lieutenant Governor in Council revoke the appointment of a member appointed under clause 7(4)(b), where the member
(a) fails to attend three consecutive meetings of the council without, in the opinion of the council, reasonable excuse;
(b) is convicted of an offence that, in the opinion of the council, renders the member unsuitable to continue to hold office as a member;
(c) commits an act, other than one referred to in clause (b), that, in the unanimous opinion of the other members of the council, undermines the ability of the member to act credibly as a member; or
(d) is, in the opinion of the council, unlikely to be able to fulfil the member’s duties on the council due to physical or mental incapacity.

(3) Where a council member who was appointed under clause 7(4)(a) ceases to hold office before the member’s term expires, the Minister may appoint a new member to hold office for the unexpired portion of the term. 2013,c.48,s.9.

10. (1) A council may make bylaws not inconsistent with this Act or the regulations relating to the management and operation of the college, including bylaws
(a) respecting the governance procedures of the college;
(b) respecting the election or appointment of officers and the appointment of agents and employees of the college;
(c) respecting the nomination and removal of members of the council;
(d) respecting the qualifications, terms of office, powers, duties, remuneration and removal of the officers, agents and employees of the college;
(e) providing for the holding of meetings of the college and the council, quorum requirements and the conduct of meetings, including
   (i) fixing the time and place for regular meetings,
   (ii) determining by whom meetings may be called,
   (iii) regulating the conduct of meetings, including voting procedures,
   (iv) providing for emergency meetings, and
   (v) regulating the notice required in respect of meetings;
(f) respecting the establishment and operation of committees of the college, including
   (i) determining the composition, powers and duties of the committees, and
   (ii) providing for the holding of meetings of committees, quorum requirements and the conduct of meetings of committees;
(g) respecting relationships with external agencies, including authorizing the college to enter into agreements with external agencies;
(h) repealed by 2014,c.46,s.2(a);
(i) establishing fees and any other assessments of members;
(j) establishing the duties, remuneration and allowances of members of the council and committees, and providing for the payment of necessary expenses of the council and committees;
(k) establishing the seal of the college;
(l) providing for the execution of documents by the college; and
(m) establishing procedures for the making, amendment and revocation of the bylaws of the council.

(2) A council
   (a) shall appoint a registrar for the purposes of this Act and the regulations; and
   (b) may remunerate the registrar for performing the registrar’s duties under this Act.

(3) The registrar is a non-voting member of a council.

(4) A registrar shall
   (a) keep and maintain registers and records as directed by the council,
   (b) perform the duties of the registrar in respect of discipline matters under Part VI; and
   (c) perform other functions and duties assigned to the registrar by the council.
(5) The council may appoint a deputy registrar and such other officers, agents or employees as it considers necessary to assist it in carrying out its duties under this Act and the regulations. 2013,c.48,s.10; 2014,c.46,s.2.

PART III – REGISTRATION

Register of Regulated Health Profession

11. A registrar shall keep a register for each regulated health profession of a college and a record of health profession corporations, which shall be open to inspection during regular office hours free of charge. 2013,c.48,s.11.

Application

12. (1) A person may apply to the registrar, in the form approved by the council, to be
(a) registered in the register of a regulated health profession; and
(b) issued a certificate of registration.

Eligibility criteria

(2) Subject to section 25, an applicant is eligible to be registered in the register of a regulated health profession and to be issued a certificate of registration if the applicant
(a) is entitled to work in Canada;
(b) in the opinion of the Council, has reasonable proficiency in written and spoken English;
(c) has successfully completed the prescribed educational requirements for the regulated health profession at an educational institution that is
(i) approved by the council, or
(ii) accredited by an accreditation body designated in the regulations;
(d) has successfully completed the examinations required by the regulations;
(e) has successfully completed any requirements for doctoral practicum and any internship training and post-doctoral supervised practice set out in the regulations;
(f) meets the requirements for currency of professional knowledge and skills set out in the regulations;
(g) where applicable, is in good standing with the professional regulatory bodies regulating the practice of the regulated health profession, or the use of titles relating to the practice of the profession, in any jurisdictions in which the applicant was previously authorized to practise the profession or to use a title relating to the practice of the profession;
(h) has not been found guilty of an offence that, in the council’s opinion, renders the applicant unsuitable to practise the regulated health profession;
(i) has not been disciplined by a professional regulatory body for misconduct, incompetence or incapacity that, in the council’s opinion, renders the applicant unsuitable to practise the regulated health profession;
(j) holds professional liability insurance or protection as required by the regulations;
(k) meets any other requirements set out in the regulations; and
(l) has paid the fee established by the bylaws.

(3) On receipt of an application made in accordance with subsection (1), the registrar shall review the application and, subject to subsection (5), may register the applicant in the register and issue a certificate of registration to the applicant if the registrar is satisfied that the applicant meets the requirements for registration set out in subsection (2).

(4) An applicant who holds extra-provincial certification in the regulated health profession that is, in the opinion of the registrar, substantially equivalent to the registration being applied for is deemed to have met the requirements of clauses (2)(a) to (f).

(5) The registrar shall refer an application to the council where the registrar
(a) is not satisfied that the applicant meets the requirements as set out in subsection (2) or (4); or
(b) has reason to believe that the applicant
   (i) has an outstanding charge for, or has been found guilty of, an offence, or
   (ii) is under investigation, or has been disciplined, by a professional regulatory body for misconduct, incompetence or incapacity.

(6) Subject to section 25, on receipt of an application referred by the registrar under subsection (5), the council shall review the application and, subject to any terms or conditions the council considers appropriate, the council may direct the registrar to
(a) register the applicant in the register of the regulated health profession; and
(b) issue a certificate of registration to the applicant.

(7) On receipt of a direction from the council under subsection (5), the registrar shall
(a) register the applicant in the register of the regulated health profession; and
(b) issue a certificate of registration to the applicant. 2013,c.48,s.12; 2014,c.46,s.1.

Special Registration

13. (1) Notwithstanding section 12, a person who is authorized by a professional regulatory body in another jurisdiction recognized by a council to
(a) practise a regulated health profession; or
(b) use a title relating to the practice of the regulated health profession,
may apply to the council, in a form approved by the council, to be registered in the register of the regulated health profession for a limited time or for a special purpose.

(2) An applicant shall provide the following with an application made under subsection (1):
(a) proof satisfactory to the council that the applicant meets the qualifications and requirements set out in clause (3)(b);
(b) payment of the fees established by the bylaws.

(3) Subject to section 25, the council may direct the registrar to register an applicant in a register and issue a certificate of registration to the applicant where
(a) the council approves the registration of the applicant for the time period or the special purpose proposed by the applicant; and
(b) the council is satisfied that the applicant
(i) has submitted an application in accordance with subsections (1) and (2),
(ii) is authorized to practise a regulated health profession, or to use a title relating to the practice of the regulated health profession, by a professional regulatory body in another jurisdiction recognized by the council, in a professional category considered by the council to be equivalent or comparable to registration in that register,
(iii) has paid the fees established by the bylaws, and
(iv) meets any other requirements set out in the regulations.

(4) On receipt of a direction from the council under subsection (3), the registrar shall
(a) register the applicant in the register as directed by the council; and
(b) issue a certificate of registration to the applicant. 2013,c.48,s.13.
Honourary Membership

14. (1) A college may, in accordance with its bylaws, confer an honourary membership in the college on any individual.

(2) An honourary membership does not entitle its holder to practise the regulated health profession of the college or to have the holder’s name entered in the register. 2013,c.48,s.14.

Health Profession Corporations

15. (1) A corporation may apply to a council, in the form approved by the council, for a permit to operate as a health profession corporation.

(2) Subject to section 25, an applicant is eligible for a permit to operate as a health profession corporation if

(a) the corporation has submitted an application in accordance with subsection (1);
(b) the corporation is in good standing in accordance with the legislation under which it was incorporated;
(c) the letters patent or articles of incorporation of the corporation permit the corporation to carry on the practice of a regulated health profession;
(d) the name of the corporation meets the requirements set out in the regulations;
(e) each issued voting share of the corporation is legally and beneficially owned by
   (i) a member,
   (ii) a trust in which all of the trustees and all of the beneficiaries are members,
   (iii) a health profession corporation, or
   (iv) a corporation
      (A) of which each issued voting share is legally and beneficially owned by one or more of the persons described in subclause (i) or (ii), and
      (B) that meets the requirements of clauses (f) and (g);
(f) each issued non-voting share of the corporation is legally and beneficially owned by
   (i) a member,
   (ii) a health profession corporation that is a voting shareholder in the corporation,
   (iii) a spouse, child, grandchild, sibling or parent of a member who
      (A) is a voting shareholder in the corporation, or
      (B) is a voting shareholder in a health profession corporation that is a voting shareholder in the corporation,
(iv) a trust in which all of the trustees and all of the beneficiaries are persons described in subclause (i), (ii) or (iii), or
(v) a corporation of which
  (A) each issued share is legally and beneficially owned by one or more of the persons described in subclause (i), (ii), (iii) or (iv), and
  (B) each of the officers and directors are persons described in subclause (i), (ii) or (iii);
(g) all of the officers and directors of the corporation are members;
h) the persons who practise a regulated health profession on behalf of the corporation are members who hold current certificates of practice;
h.1) the corporation holds professional liability insurance or protection as required by the regulations;
i) the corporation has paid the fee established by the bylaws; and
(j) the corporation meets any other requirements set out in the regulations.

(3) On receipt of an application made in accordance with subsection (1), the registrar shall review the application and, subject to subsection (4), may add the name of the applicant to the record of health profession corporations and issue a permit to the applicant if the registrar is satisfied that the applicant meets the requirements set out in subsection (2).

(4) The registrar shall refer an application by a corporation to the council where the registrar is not satisfied that the applicant meets the requirements set out in subsection (2).

(5) Subject to section 25, on receipt of an application referred by the registrar under subsection (4), the council shall review the application and, subject to any terms or conditions the council considers appropriate, the council may direct the registrar to
  (a) add the name of the applicant to the record of health profession corporations maintained by the registrar; and
  (b) issue a permit to the applicant.

(6) On receipt of a direction from the council under subsection (5), the registrar shall
  (a) add the name of the applicant to the record of health profession corporations maintained by the registrar; and
  (b) issue a permit to the applicant.

(7) A health profession corporation that ceases to meet any eligibility requirement for its permit under this Act or the regulations shall notify the council for that regulated health profession without delay.
(8) A corporation, including a health profession corporation, shall not be registered as a member of a college. 2013,c.48,s.15; 2013,c.21,s.1; 2014,c.46,s.1.

Terms and Conditions

16. (1) Where a council imposes terms and conditions on a registration or a permit, the council shall give notice of the terms and conditions to the affected member or health profession corporation, as the case may be, in accordance with section 85.

(2) A council shall not impose a term or condition on a registration or a permit that contravenes the Labour Mobility Act. 2013,c.48,s.16.

Information in Registers and Records

17. (1) A registrar shall enter in the register, in respect of each member who is registered in that register,

(a) the name and business address of the member and, if applicable, the name of each health profession corporation of which the member is a shareholder or a director;
(b) the qualifications of the member;
(c) whether the member is not authorized to provide a reserved activity that is normally provided by members of the member’s college;
(d) any terms or conditions imposed by the council on the member’s registration;
(e) the date and circumstances of any suspension, cancellation or reinstatement of the registration of the member or other result of a disciplinary proceeding involving the member; and
(f) any other information required to be entered in the register by the regulations.

(2) A member who is registered in a register shall notify the registrar without delay of any change in the information or qualifications to be registered referred to in clauses (1)(a) to (c) in respect of the member.

(3) A registrar shall enter in the record for each health profession corporation that holds a permit issued under section 15 in respect of the regulated health profession of the college

(a) the name and business address of the health profession corporation and every director of the health profession corporation;
(b) any terms or conditions imposed by the council on the health profession corporation’s permit;
(c) the date and circumstances of any suspension, cancellation or reinstatement of the health profession corporation’s permit or other...
result of a disciplinary proceeding involving the health profession corporation; and
(d) any other information required to be entered in the register by the regulations. 2013,c.48,s.17.

18. Upon request, a registrar shall disclose
   (a) to any person,
      (i) the name, business address, qualifications, registration status and registration history of a member or former member,
      (ii) the name, business address, registration status and registration history of a health profession corporation or former health profession corporation,
      (iii) the name and business address of every director of a health profession corporation or former health profession corporation,
      (iv) aggregate non-identifiable demographic information from a register, and
      (v) any other information required to be disclosed by the regulations; and
   (b) to another professional regulatory body, the information required to be disclosed by the regulations. 2013,c.48,s.18.

Certificates and Permits

19. (1) A registrar shall include the following information on a certificate of registration or a permit:
   (a) the name of the member or health profession corporation, as the case may be;
   (b) the register in which the member is registered;
   (c) the expiry date of the certificate of registration or permit;
   (d) any terms and conditions imposed on the registration of the member or the permit of the health profession corporation;
   (e) any other information required to be included on a certificate of registration or a permit by the regulations.

   (2) If any of the information referred to in subsection (1) changes, the registrar shall amend the registration of the member or the record in respect of a health profession corporation and issue a replacement certificate of registration or permit, as the case may be.

   (3) A certificate of registration or a permit expires on December 31.

   (4) Upon renewal of a registration or a permit, the registrar shall issue a replacement certificate of registration or permit.

   (5) Where the registration of a member or the permit of a health profession corporation is suspended or cancelled under this Act or the regulations,
(a) the certificate of registration of the member or the permit of the health profession corporation is invalid; and
(b) the member or health profession corporation shall, without delay after being served with notice of the suspension or cancellation, return the certificate of registration of the member or permit of the health profession corporation to the council.

(6) Upon the expiry of the suspension of the registration of a member or the permit of a health profession corporation, the registrar shall, if the member or health profession corporation continues to meet the requirements of section 12 and section 15, respectively, issue a replacement certificate of registration or permit, as the case may be. 2013,c.48,s.19.

20. (1) A registrar may, in accordance with the bylaws of the college, issue a certificate of practice to a member on payment of the practising fee provided for in the bylaws, if
(a) the member’s registration is not suspended or cancelled;
(b) the member meets any requirements for continuing competence that are set out in the regulations or the bylaws of the college;
(c) the member has professional liability insurance or protection as required by the regulations;
(d) the member provides to the registrar any other information as required by the regulations; and
(e) the member meets any other requirements set out in the regulations.

(2) A certificate of practice issued to a member under subsection (1) shall include the following information:
(a) the member’s name;
(b) the name of the college on whose behalf the certificate of practice is issued;
(c) the date of issue and the date of expiry of the certificate of practice;
(d) any terms or conditions imposed on the registration of the member or restrictions imposed on the member’s authority to provide a reserved activity;
(e) the type of practice of the member, if the college has more than one class of member;
(f) a statement that the certificate of practice is issued pursuant to this Act.

(3) A member who holds a current certificate of practice shall,
(a) on request by any person, produce the certificate for inspection; and
(b) if required to do so by the regulations or the bylaws, display the certificate in a conspicuous place in the premises in which the member practises.

Renewal

(4) A certificate of practice may be renewed on application to the registrar if the member named in the certificate
(a) continues to meet the requirements set out in the regulations and the bylaws with respect to the certificate of practice; and
(b) pays the renewal fee provided for in the bylaws.

Certificate of practice continues

(5) Notwithstanding its expiry date, but subject to subsection (6), a certificate of practice continues in force pending the result of an application for renewal made under subsection (4).

Suspension, cancellation

(6) Where the requirements for renewal of a certificate of practice have not been met by the date provided for in the regulations, the certificate is suspended and may be cancelled by the registrar in accordance with the regulations.

Appeal

(7) A member whose application for a certificate of practice or a renewal of a certificate of practice is not approved, or is approved subject to conditions, may appeal the decision in accordance with section 27. 2013,c.48,s.20.

Requirement to Notify Council

21. A member who or health profession corporation that
(a) is found guilty of an offence;
(b) is disciplined by a professional regulatory body in another jurisdiction; or
(c) ceases to hold professional liability insurance or protection as required by the regulations,
shall notify the council for that regulated health profession without delay. 2013,c.48,s.21.

Renewal of Registration or Permit

22. (1) A member or a health profession corporation may, at least 30 days before the certificate of registration of the member or the permit of the health profession corporation expires, apply to the registrar for that regulated health profession, in a form approved by the council, for renewal of the registration or permit, as the case may be.

Eligibility for renewal

(2) The registrar shall review the application made under subsection (1) and may renew
(a) the registration of an applicant who is a member if the registrar is satisfied that the applicant
(i) has fulfilled the continuing education requirements as set out in the regulations,
(ii) has fulfilled the requirements for currency of professional knowledge and skills as set out in the regulations,
(iii) has not been found guilty of an offence that, in the council’s opinion, renders the applicant unsuitable to practise the regulated health profession,
(iv) has not been disciplined by a professional regulatory body for conduct that, in the council’s opinion, renders the applicant unsuitable to practise the regulated health profession,
(v) has professional liability insurance or protection as required by the regulations, and
(vi) has paid the fee established by the bylaws; and
(b) the permit of a health profession corporation if the registrar is satisfied that the health profession corporation continues to meet the requirements of clauses 17(2)(b) to (h) and has paid the fee established by the bylaws.

(3) The registrar shall refer an application by a member or a health profession corporation to the council where
(a) the registrar is not satisfied that the applicant meets the requirements set out in subsection (2);
(b) the member or the health profession corporation is currently subject to an interim suspension; or
(c) the member’s registration, or the health profession corporation’s permit, has been cancelled and has not been reinstated.

(4) Subject to section 25, on receipt of an application referred by the registrar under subsection (3), the council shall review the application and
(a) if the council is satisfied that the applicant meets the requirements for the renewal of a registration or permit as set out in subsection (2), direct the registrar to renew the registration of the member or the permit of the health profession corporation, as the case may be; or
(b) where the member or the health profession corporation is subject to an interim suspension, or the member’s registration, or the health profession corporation’s permit, has been cancelled and has not been reinstated, deal with the matter under section 25. 2013,c.48,s.22; 2014,c.46,s.1.

Cancellation of Registration or Permit

23. (1) Subject to subsection (2), a registrar shall cancel the registration of a member or the permit of a health profession corporation whose certificate of registration or permit has expired.
(2) Notwithstanding subsection 19(3) or 22(1), on the written request of a member or health profession corporation, the council may, in writing,
(a) extend the time for making an application for renewal of a registration or permit; or
(b) extend the registration or permit beyond the expiry date specified on the certificate or permit for a period not exceeding 30 days.

(3) A member or health profession corporation may
(a) surrender the certificate of registration held by the member or the permit held by the health profession corporation to the registrar; and
(b) request, in writing, that the registrar cancel the registration of the member or the permit of the health profession corporation.

(4) On receipt of a request by a member or health profession corporation under clause (3)(b), the registrar shall cancel the registration of the member or the permit of the health profession corporation.

2013,c.48,s.23.

Reinstatement of Registration or Permit

24. (1) Where the registration of a former member was cancelled under section 23 and less than two years have elapsed since the cancellation, the former member may apply to the council for that regulated health profession, in a form approved by the council, for reinstatement of his or her registration.

(2) Where the permit of a former health profession corporation was cancelled under section 23 and less than two years have elapsed since the cancellation, the former health profession corporation may apply to the council for that regulated health profession, in a form approved by the council, for reinstatement of its permit.

(3) An applicant shall provide the following with an application made under subsection (1) or (2):
(a) proof satisfactory to the council that the applicant meets the qualifications and requirements as set out in subsection (4) or (5), as the case may be;
(b) payment of the fees established by the bylaws.

(4) Subject to section 25, the council shall direct the registrar to reinstate the registration of an applicant who is a former member and issue a certificate of registration to the applicant if the council is satisfied that the applicant
(a) has submitted an application in accordance with subsections (1) and (3);
(b) where applicable, is in good standing with the professional regulatory bodies regulating the practice of the regulated health profession, or the use of titles relating to the practice of the profession, in any jurisdictions in which the applicant was authorized to practise the profession or to use a title relating to the practice of the profession since the cancellation of the applicant’s registration;
(c) meets any requirements for currency of professional knowledge and skills as set out in the regulations;
(d) has not been found guilty of an offence that, in the council’s opinion, renders the applicant unsuitable to practise a regulated health profession;
(e) has not been disciplined by a professional regulatory body for conduct that, in the council’s opinion, renders the applicant unsuitable to practise a regulated health profession;
(f) has professional liability insurance or protection as required by the regulations; and
(g) meets any other requirements respecting registration set out in the regulations.

(5) Subject to section 25, the council shall direct the registrar to reinstate the permit of an applicant that is a former health profession corporation if the council is satisfied that the applicant
(a) has submitted an application in accordance with subsections (2) and (3);
(b) meets the eligibility requirements in clauses 17(2)(b) to (h); and
(c) meets any other requirements as set out in the regulations.

(6) On receipt of a direction from the council under subsection (4) or (5), the registrar shall reinstate the permit of the applicant.

Refusal, Suspension or Cancellation of Registration or Permit

25. (1) A council may refuse to register or to issue a permit to an applicant where the council determines that the applicant does not meet the eligibility requirements under this Act or the regulations.

(2) A council may refuse to consider an application for registration or a permit, for renewal of registration or a permit, or for reinstatement of registration or a permit, by an applicant who
(a) has an outstanding charge for an offence; or
(b) is under investigation by a professional regulatory body, until the matter has been resolved.
(3) A council may suspend or cancel the registration of a member who
(a) is found guilty of an offence that, in the council’s opinion,
renders the member unsuitable to practise the regulated health
profession;
(b) is disciplined by a professional regulatory body for conduct that,
in the council’s opinion, renders the member unsuitable to practise
the regulated health profession; or
(c) ceases to hold professional liability insurance or protection as
required by the regulations.

(4) A council may suspend or cancel the permit of a health profession
corporation that fails to meet any eligibility requirement applicable to it
under this Act or the regulations.

(5) A council shall not suspend or cancel the permit of a health
profession corporation under subsection (4) for a period of 90 days from
the date of the failure to meet the eligibility requirement referred to in
that subsection where the reason for the failure is that a shareholder of
the health profession corporation has died or has otherwise ceased to be
registered.

(6) In the event of the death of a member who is a shareholder of a
health profession corporation, a council may, in writing, extend the 90-
day period provided for in subsection (5) for the further period that it
considers reasonable. 2013,c.48,s.25.

26. (1) On refusing to register or issue a permit to an applicant, refusing
to consider an application or suspending or cancelling a registration or
permit under section 25, a council shall serve on the affected person
(a) written notice of and reasons for the refusal, suspension or
cancellation; and
(b) written notice of the person’s right to appeal under section 27.

27. (1) A person who is aggrieved by the imposition of terms and
conditions on the person’s registration under section 12 or a permit under
section 15 by a council may appeal the imposition of the terms and
conditions to the Supreme Court within 30 days after being served with
notice of the imposition.

(2) A person who is aggrieved by a refusal of a council or a
suspension or cancellation of a registration or permit by a council under
section 25 may appeal the refusal, suspension or cancellation to the Supreme Court within 30 days after being served with notice of the refusal, suspension or cancellation.

(3) On hearing an appeal, the court may

(a) confirm, revoke or vary the terms and conditions imposed by the council or the refusal, suspension or cancellation appealed from;
(b) refer the matter, or any issue, back to the council for further consideration; or
(c) provide any direction that it considers appropriate.

(4) The court may make any order as to the costs of an appeal that it considers appropriate. 2013,c.48,s.27.

PART IV – BUSINESS ARRANGEMENTS

Health Profession Corporations

28. (1) A health profession corporation that holds a permit may practise a regulated health profession through one or more members

(a) under its own name; or
(b) as a member of a general partnership of
   (i) health profession corporations, or
   (ii) one or more health profession corporations and one or more members, under a name that meets the requirements set out in the regulations.

(2) The relationship of a member to a health profession corporation as a shareholder, director, officer or employee does not affect, modify or diminish

(a) the application of this Act or the regulations to;
(b) the fiduciary, ethical and legal duties of; or
(c) the liability of, the member.

(3) A health profession corporation is jointly and severally liable with a member who practises a regulated health profession on behalf of the health profession corporation for any fines, costs and expenses that the member is ordered to pay under this Act.

(4) In the event of a conflict between the member’s duty to a client, the council or the public and the member’s duty to a health profession corporation, the duty to the client, the council or the public, as the case may be, prevails. 2013,c.48,s.28.
29. (1) Nothing contained in this Act shall affect, modify or limit any law applicable to the confidential or ethical relationships between a member and a person receiving the professional services of the member.

(2) The relationship between a health profession corporation and a person receiving the professional services of the corporation is subject to all applicable laws relating to the confidential and ethical relationship between a member and a person receiving the professional services of the member.

(3) All rights and obligations pertaining to communications made to, or information received by, members, apply to the shareholders, directors, officers and employees of a health profession corporation. 2013,c.48,s.29.

30. (1) No shareholder of a health profession corporation shall enter into a voting trust agreement, proxy or any other type of agreement vesting in another person who is not a member the authority to exercise the voting rights attached to any or all of the shareholder’s shares.

(2) A health profession corporation shall notify the registrar within 30 days of any change in the status of shareholders or directors of the health profession corporation. 2013,c.48,s.30.

Practice in Association

31. (1) In this section, “practice in association” means the conducting of a practice by a member in co-operation with another member where one or more of the following occur:

(a) joint advertising;
(b) a shared office telephone number;
(c) combined client billing for services provided by more than one person;
(d) a shared office reception area;
(e) shared office or clinic expenses;
(f) shared administrative functions or expenses;
(g) shared ownership or use of premises, equipment, furnishings or other property;
(h) shared employees;
(i) other circumstances set out in the regulations as constituting practice in association.

(2) Unless restricted by the regulations, a member may

(a) practise in association with another member who is a member of the member’s college or with a member of any other college; and
(b) refer patients to and receive referrals from another member of any college or any other person.
(3) The ethical and confidential obligations of a member to a person 
receiving health care from the member 
(a) are not diminished by the fact that the member is practising in 
association; and 
(b) apply equally to all members practising in association. 
2013,c.48,s.31.

PART V – STANDARDS OF PRACTICE AND CODE OF ETHICS

32. (1) A council shall, by regulation, establish appropriate standards of 
practice to enhance the quality of practice of members of the council’s 
regulated health profession.

(2) A regulation referred to in subsection (1) may incorporate by 
reference, in whole or in part, any code, standard or guideline relating to 
standards of practice of the regulated health profession, and may 
incorporate it as amended from time to time and with any necessary 
changes.

(3) A document incorporated by reference under subsection (2) shall 
be a document created by a recognized authority in the area of practice of 
the regulated health profession and shall not be a document created by 
the council.

(4) A council shall make a copy of every code, standard or guideline 
adopted under subsection (2) available for public inspection 
(a) during normal business hours in the council’s office if the council 
has an office; or 
(b) as set out in the regulations made under subsection 96(2). 
2013,c.48,s.32.

33. (1) A council shall, by resolution, adopt a code of ethics governing 
the professional conduct of members.

(2) A code of ethics referred to in subsection (1) may incorporate by 
reference, in whole or in part, any code, standard or other document, and 
may incorporate it as amended from time to time and with any necessary 
changes.

(3) A council shall make a copy of the code of ethics available for 
public inspection 
(a) during normal business hours in the council’s office; or 
(b) as set out in the regulations made under subsection 96(2). 
2013,c.48,s.33.
34. A member or health profession corporation shall comply with this Act, the regulations, the bylaws, standards of practice, code of ethics, and practice directions respecting the regulated health profession.

2013,c.48,s.34.

PART VI – DISCIPLINE

Interpretation

35. In this Part,

(a) “complaint” means a complaint made or initiated under section 36 or referred to the investigation committee under section 39;

(b) “complainant” means

(i) a person who makes a complaint to the registrar under subsection 36(1), or
(ii) the registrar, in respect of a complaint initiated by the registrar under subsection 36(4);

(c) “conduct” includes an act and an omission;

(d) “hearing committee” means the hearing committee appointed by the council under subsection 54(1);

(e) “investigation committee” means the investigation committee appointed by the council under subsection 42(1);

(f) “investigator” means an investigator appointed by the council under subsection 42(6);

(g) “respondent” means a member or former member who is the subject of a complaint. 2013,c.48,s.35.

Complaint

36. (1) Any person, other than the registrar, may make a complaint to the registrar alleging that

(a) the conduct of a member; or
(b) the conduct of a former member that occurred while the person was a member,

constitutes professional misconduct or incompetence as set out in section 57.

(2) A person who wishes to make a complaint under subsection (1) shall

(a) state the complaint and the grounds for the complaint in writing; and
(b) sign the complaint.
(3) A former member continues to be subject to the jurisdiction of the council, the investigation committee, an investigator and the hearing committee with respect to any conduct that occurred while the former member was a member that may constitute professional misconduct or incompetence.

(4) In the absence of a complaint made to the registrar under subsection (1), the registrar may initiate a complaint in writing if the registrar has reasonable grounds to believe that
   (a) the conduct of a member; or
   (b) the conduct of a former member that occurred while the person was a member,
constitutes professional misconduct or incompetence. 2013,c.48,s.36.

37. (1) Where
   (a) a registrar
       (i) has a conflict of interest regarding a complaint made under subsection 36(1), or
       (ii) initiates a complaint under subsection 36(4); and
   (b) if a deputy registrar has not been appointed under subsection 10(5),
the council shall immediately appoint a deputy registrar, and the registrar shall refer the complaint to the deputy registrar.

(2) Where a registrar refers a complaint to a deputy registrar under subsection (1),
   (a) the registrar shall refrain from participating in any investigation, proceeding or decision in respect of the complaint;
   (b) the deputy registrar may exercise the powers and shall perform the duties of the registrar under this Act and the regulations in respect of the complaint; and
   (c) a reference in this Act or the regulations to the registrar in respect of the complaint shall be read as a reference to the deputy registrar. 2013,c.48,s.37.

38. (1) Within 30 days after the receipt of a complaint under subsection 36(1) or the initiation of a complaint under subsection 36(4), the registrar shall
   (a) serve on the respondent
       (i) a copy of the complaint, and
       (ii) written notice of the respondent’s right to submit a response to the complaint under subsection (2); and
   (b) notify the council of the complaint.

(2) A respondent may submit a written response to a complaint to the registrar within 30 days after being served with a copy of the complaint under clause (1)(a).
(3) The registrar shall, immediately after the expiry of the period referred to in subsection (2), serve a copy of any response submitted under subsection (2) on the complainant. 2013,c.48,s.38.

39. Notwithstanding section 40, where
   (a) a registrar
      (i) has a conflict of interest in respect of a complaint made under subsection 36(1), or
      (ii) initiates a complaint under subsection 36(4); and
   (b) a deputy registrar has not been appointed pursuant to subsection 37(1),

   the registrar shall comply with the requirements of subsection 38(1) and, immediately after the expiry of the period referred to in subsection 38(2) and the service of a copy of any response under subsection 38(3), the registrar shall
   (c) refer the complaint, and any response to the complaint submitted under subsection 38(2), to the investigation committee; and
   (d) refrain from participating in any investigation, proceeding or decision in respect of the complaint. 2013,c.48,s.39.

40. (1) A registrar
   (a) shall inquire into a complaint to the extent that the registrar determines is warranted;
   (b) may attempt to resolve the complaint informally if the registrar considers informal resolution to be appropriate and not contrary to the public interest; and
   (c) report within 30 days to the council respecting status of the complaint and, if the complaint is not resolved at that time, provide further reports as directed by the council.

(2) A registrar shall dismiss a complaint if the registrar finds
   (a) that the complaint is frivolous, vexatious or without merit; or
   (b) that
      (i) the complaint has been resolved or the complainant wishes no further action to be taken, and
      (ii) dismissal is not contrary to the public interest.

39. Notwithstanding section 40, where

   (a) a registrar
      (i) has a conflict of interest in respect of a complaint made under subsection 36(1), or
      (ii) initiates a complaint under subsection 36(4); and
   (b) a deputy registrar has not been appointed pursuant to subsection 37(1),

   the registrar shall comply with the requirements of subsection 38(1) and, immediately after the expiry of the period referred to in subsection 38(2) and the service of a copy of any response under subsection 38(3), the registrar shall
   (c) refer the complaint, and any response to the complaint submitted under subsection 38(2), to the investigation committee; and
   (d) refrain from participating in any investigation, proceeding or decision in respect of the complaint. 2013,c.48,s.39.

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   (c) report within 30 days to the council respecting status of the complaint and, if the complaint is not resolved at that time, provide further reports as directed by the council.

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   (b) that
      (i) the complaint has been resolved or the complainant wishes no further action to be taken, and
      (ii) dismissal is not contrary to the public interest.

39. Notwithstanding section 40, where

   (a) a registrar
      (i) has a conflict of interest in respect of a complaint made under subsection 36(1), or
      (ii) initiates a complaint under subsection 36(4); and
   (b) a deputy registrar has not been appointed pursuant to subsection 37(1),

   the registrar shall comply with the requirements of subsection 38(1) and, immediately after the expiry of the period referred to in subsection 38(2) and the service of a copy of any response under subsection 38(3), the registrar shall
   (c) refer the complaint, and any response to the complaint submitted under subsection 38(2), to the investigation committee; and
   (d) refrain from participating in any investigation, proceeding or decision in respect of the complaint. 2013,c.48,s.39.

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   (a) shall inquire into a complaint to the extent that the registrar determines is warranted;
   (b) may attempt to resolve the complaint informally if the registrar considers informal resolution to be appropriate and not contrary to the public interest; and
   (c) report within 30 days to the council respecting status of the complaint and, if the complaint is not resolved at that time, provide further reports as directed by the council.

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   (a) that the complaint is frivolous, vexatious or without merit; or
   (b) that
      (i) the complaint has been resolved or the complainant wishes no further action to be taken, and
      (ii) dismissal is not contrary to the public interest.

39. Notwithstanding section 40, where

   (a) a registrar
      (i) has a conflict of interest in respect of a complaint made under subsection 36(1), or
      (ii) initiates a complaint under subsection 36(4); and
   (b) a deputy registrar has not been appointed pursuant to subsection 37(1),

   the registrar shall comply with the requirements of subsection 38(1) and, immediately after the expiry of the period referred to in subsection 38(2) and the service of a copy of any response under subsection 38(3), the registrar shall
   (c) refer the complaint, and any response to the complaint submitted under subsection 38(2), to the investigation committee; and
   (d) refrain from participating in any investigation, proceeding or decision in respect of the complaint. 2013,c.48,s.39.

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   (a) shall inquire into a complaint to the extent that the registrar determines is warranted;
   (b) may attempt to resolve the complaint informally if the registrar considers informal resolution to be appropriate and not contrary to the public interest; and
   (c) report within 30 days to the council respecting status of the complaint and, if the complaint is not resolved at that time, provide further reports as directed by the council.

(2) A registrar shall dismiss a complaint if the registrar finds
   (a) that the complaint is frivolous, vexatious or without merit; or
   (b) that
      (i) the complaint has been resolved or the complainant wishes no further action to be taken, and
      (ii) dismissal is not contrary to the public interest.

39. Notwithstanding section 40, where

   (a) a registrar
      (i) has a conflict of interest in respect of a complaint made under subsection 36(1), or
      (ii) initiates a complaint under subsection 36(4); and
   (b) a deputy registrar has not been appointed pursuant to subsection 37(1),

   the registrar shall comply with the requirements of subsection 38(1) and, immediately after the expiry of the period referred to in subsection 38(2) and the service of a copy of any response under subsection 38(3), the registrar shall
   (c) refer the complaint, and any response to the complaint submitted under subsection 38(2), to the investigation committee; and
   (d) refrain from participating in any investigation, proceeding or decision in respect of the complaint. 2013,c.48,s.39.
41. (1) The complainant may, within 30 days after being served with the notice of the dismissal of a complaint by a registrar under subsection 40(3), submit a request for a review of the dismissal to the council.

    (2) The council shall refer a request for a review of the dismissal of a complaint made under subsection (1) to the investigation committee appointed under section 42.

    (3) Unless the investigation committee otherwise determines, a review of the dismissal of a complaint by the investigation committee shall be based on the record prepared by the registrar and the registrar’s reasons for dismissal.

    (4) Within 60 days after receipt of a request for review under subsection (2), the investigation committee shall review the dismissal and
    (a) confirm the dismissal; or
    (b) where the investigation committee finds that the dismissal of the complaint was in error, overturn the dismissal.

    (5) On confirming or overturning a dismissal under subsection (4), the investigation committee shall serve, on the complainant and the respondent, written notice of and reasons for its decision.

    (6) Where the investigation committee overturns the dismissal of a complaint, the investigation committee shall
    (a) investigate the complaint in accordance with section 47; or
    (b) refer the complaint to an investigator for an investigation in accordance with section 47. 2013,c.48,s.41.

Investigation Committee

42. (1) On being notified under clause 38(1)(b) respecting a complaint, a council shall appoint an investigation committee composed of three persons, including at least one member of the council and at least one public representative.

    (2) Where the council that has been notified under clause 38(1)(b) respecting a complaint is a multidisciplinary council, one of the persons appointed to the investigation committee under subsection (1) shall be a member of the same regulated health profession as the member who is the subject of the complaint.

    (3) The council shall appoint a member of the investigation committee who is also a member of the council as the chair of the investigation committee.

    (4) Two members of the investigation committee, one of whom shall be a public representative, constitute a quorum.
(5) A member of the investigation committee who has a conflict of interest in respect of a matter that is before the investigation committee shall

(a) immediately disclose the nature of the conflict of interest to the investigation committee; and

(b) refrain from attempting to influence the disposition of the matter or participating in consideration of the matter.

(6) The council may appoint one or more persons as investigators. 2013,c.48,s.42.

Consideration of Complaint

43. Within 30 days after the referral of a complaint to an investigation committee under clause 39(c), subsection 40(4) or clause 50(2)(c), the investigation committee shall consider the complaint and any response to the complaint that was submitted by the respondent under subsection 38(2), and

(a) dismiss the complaint, if in the opinion of the investigation committee, the complaint is frivolous and vexatious or without merit;

(b) refer the complaint to a mediator for mediation, if

(i) the investigation committee is satisfied that the referral is appropriate in the circumstances and not contrary to the public interest, and

(ii) the complainant and the respondent agree to participate in mediation;

(c) make any order that the hearing committee is authorized to make under subsection 55(2), if the respondent consents to the order; or

(d) investigate the complaint or refer the complaint to an investigator for investigation in accordance with section 47. 2013,c.48,s.43.

Mediation

44. (1) An investigation committee may establish procedures to be followed with respect to mediation, including procedures pertaining to the selection of a mediator.

(2) Where an investigation committee refers a complaint to a mediator for mediation under clause 43(b) and the complainant and the respondent agree to a proposed resolution of the complaint, the mediator shall

(a) ensure that the proposed resolution is recorded in a written agreement that

(i) includes all of the terms and conditions agreed to by the complainant and the respondent, and
(ii) is signed by the complainant, the respondent and the mediator; and
(b) submit the agreement referred to in clause (a) to the investigation committee.

(3) On receipt of an agreement submitted to the investigation committee under clause (2)(b), the investigation committee shall
(a) approve or reject the proposed resolution; and
(b) serve on the complainant and the respondent
   (i) written notice of the approval, or
   (ii) written notice of the rejection and reasons for the rejection.

(4) Where an investigation committee approves the proposed resolution of a complaint under clause (3)(a), the investigation committee shall
(a) make any order or take any action required for the implementation of the resolution; and
(b) notify the council of the resolution of the complaint and the terms of the resolution.

(5) Where an investigation committee refers a complaint to mediation under clause 43(b) and
(a) the investigation committee concludes that mediation is not likely to be successful;
(b) the complaint is not resolved within 60 days of the referral; or
(c) the investigation committee rejects the proposed resolution of the complaint under clause (3)(a),
the investigation committee shall investigate the complaint or refer the complaint to an investigator for investigation in accordance with section 47. 2013,c.48,s.44.

45. (1) In this section, “legal proceeding” means
(a) a proceeding in any court, including a civil proceeding or a proceeding for the imposition of punishment by fine, penalty or imprisonment to enforce an Act or a regulation made under an Act; and
(b) an investigation or a hearing under this Act.

(2) No evidence of or relating to a statement made by a mediator or a participant to mediation in the course of and for the purposes of the mediation is admissible in a legal proceeding without the consent of the mediator and the participant.

(3) A mediator of a complaint is not a competent or compellable witness in a legal proceeding in respect of information obtained by the mediator in the course of or in relation to the mediation. 2013,c.48,s.45.
Where an investigation committee refers a complaint to an investigator under clause 41(6)(b) or 43(d) or subsection 44(5), the investigation committee shall

(a) serve written notice of the referral on the complainant and the respondent; and

(b) provide the investigator with a copy of the complaint and any response to the complaint submitted under subsection 38(2).

Investigation

(1) An investigation committee or an investigator

(a) may do all things necessary to provide a full and proper investigation of a complaint;

(b) may deal with multiple complaints concerning a respondent severally or in combination;

(c) shall consider the allegations and the evidence and ascertain the facts of each complaint in the manner that the investigation committee or investigator considers fit;

(d) may make oral or written inquiries of any person who may have information relevant to the investigation;

(e) may require the respondent or another member to be interviewed for the purpose of the investigation;

(f) may require the respondent to produce for examination any documents, records and other materials that are in the respondent’s possession or under the respondent’s control that may be relevant to the investigation;

(g) may copy and keep copies of any documents, records and other materials produced under clause (f); and

(h) may investigate any matter in addition to the complaint that arises in the course of the investigation and that may constitute professional misconduct or incompetence.

(2) Where an investigation committee or an investigator investigates a complaint that the conduct of the respondent constitutes incompetence, the investigation committee or the investigator may

(a) require the respondent to take an examination of knowledge or skills related to the practice of the respondent’s regulated health profession to determine whether or not the respondent is competent to practise the regulated health profession;

(b) request that the council appoint a practice auditor to audit the respondent’s practice in accordance with sections 49 and 50 to determine whether or not the respondent is competent to practise the regulated health profession; and

(c) where the investigation committee or the investigator has reasonable grounds to believe that the respondent’s capacity to
practise a regulated health profession in accordance with accepted professional standards is impaired by a disability or a condition, including an addiction or an illness, require the respondent to submit to physical or psychological examinations by the qualified persons that the investigation committee or the investigator designates.

(3) Where an investigator investigates a complaint and a regulated member fails or refuses, without reasonable cause, to

(a) respond to an inquiry or comply with a requirement under subsection (1); or
(b) comply with a requirement under subsection (2),

the investigator shall report the failure or refusal to the investigation committee in writing.

(4) Where a regulated member fails or refuses, without reasonable cause, to

(a) respond to an inquiry or comply with a requirement under subsection (1); or
(b) comply with a requirement under subsection (2),

the investigation committee may suspend or impose terms and conditions on the registration of the regulated member until he or she complies. 2013,c.48,s.47.

48. An investigation committee shall report to the council respecting the status of an investigation within 60 days of the commencement of the investigation and thereafter as directed by the council. 2013,c.48,s.48.

49. (1) A council may, on the request of an investigator or investigation committee under clause 47(2)(b) or on its own initiative, appoint one or more practice auditors for the purposes of this Act.

(2) A practice auditor may, as directed by the council, in order to ensure compliance with this Act and the regulations,

(a) audit a member’s practice; or
(b) inspect any premises at which a member practises the member’s regulated health profession.

(3) A practice auditor shall report the auditor’s findings to the registrar at the conclusion of each audit or inspection. 2013,c.48,s.49.

50. A practice auditor may share information resulting from the audit or inspection of a practice with

(a) the council; or
(b) a body having statutory authority to govern the member’s regulated health profession, or its equivalent, in another jurisdiction. 2013,c.48,s.50.
32. (1) After completing an investigation, the investigation committee or the investigator shall, within 60 days, prepare a written investigation report of the findings of the investigation committee or the investigator.

(2) An investigator shall provide the investigation report prepared under subsection (1) to the investigation committee.

(3) The investigation committee shall serve a copy of the investigation report prepared under subsection (1) to the complainant and the respondent. 2013,c.48,s.51.

52. (1) An investigation committee shall, after consideration of an investigation report prepared under subsection 51(1),

(a) dismiss the complaint, if in the opinion of the investigation committee
   (i) the allegations are frivolous, vexatious or without merit, or
   (ii) there is insufficient evidence to support the allegations;
(b) make any order that the hearing committee is authorized to make under subsection 55(2), if the respondent consents to the order; or
(c) refer the complaint to the hearing committee for a hearing.

(2) Where an investigation committee dismisses a complaint under clause 43(a) or (1)(a), the investigation committee shall serve on

(a) the complainant and the respondent,
   (i) written notice of and reasons for the dismissal,
   (ii) written notice of the complainant’s right to appeal the dismissal under subsection 59(1); and
(b) the council, written notice of and reasons for the dismissal.

(3) Where an investigation committee makes an order under clause 43(c) or clause (1)(b), the investigation committee shall serve a copy of the order on the complainant, the respondent and the council.

(4) Where an investigation committee refers a complaint to the hearing committee under clause (1)(c), the investigation committee

(a) shall serve written notice of the referral on the complainant, the respondent and the council;
(b) shall provide the hearing committee with a copy of the complaint and any response to the complaint submitted under subsection 38(2); and
(c) may appoint legal counsel to adduce evidence at the hearing. 2013,c.48,s.52.

Interim Order

53. (1) Notwithstanding any other provision of this Act, where a council has reasonable grounds to believe that the conduct of a member poses a
demonstrable risk of serious and imminent harm to the member’s clients or to the general public and that intervention is required, the council may make an order:

(a) imposing terms and conditions on the member’s registration; or
(b) suspending the member’s registration.

(2) Where a council makes an order under subsection (1), the council shall

(a) serve on the member who is the subject of the order
   (i) a copy of the order,
   (ii) written reasons for the order, and
   (iii) written notice of the right to appeal under subsection 59(2);
(b) serve a copy of the order on the registrar; and
(c) refer the matter as a complaint to the investigation committee, if a complaint has not been made or initiated in respect of the matter.

(3) An order of a council made under subsection (1)

(a) is in effect when it is served on the member who is the subject of the order; and
(b) is valid for the period, not exceeding 90 days, that is specified in the order.

(4) A council shall not impose on a registration or permit a term or condition that contravenes the provisions of the Labour Mobility Act.

54. (1) A council shall appoint a hearing committee, composed of three members who are not members of the investigation committee or investigators, including

(a) at least one member who practises the regulated health profession of the respondent; and
(b) at least one public representative.

(2) A council shall appoint a member referred to in clause (1)(a) as the chair of the hearing committee.

(3) Two members of the hearing committee, one of whom shall be a public representative, constitute a quorum.

(4) A member of the hearing committee who has a conflict of interest in respect of a matter that is before the hearing committee shall

(a) immediately disclose the nature of the conflict of interest to the hearing committee; and
(b) refrain from attempting to influence the disposition of the matter or participating in consideration of the matter.
Powers, privileges and immunities

(5) In the discharge of the functions of the hearing committee, the hearing committee and each member of the hearing committee have all of the powers, privileges and immunities of a commissioner appointed under the *Public Inquiries Act* R.S.P.E.I. 1988, Cap. P-31. 2013,c.48,s.54.

Hearing

55. (1) A hearing committee shall,
   (a) unless otherwise directed by the council, hold a hearing into a complaint referred to it within 45 days of the referral; and
   (b) conduct its proceedings in accordance with the rules of natural justice.

Notice of hearing

(2) A hearing committee shall, not less than 30 days before the date set for the hearing, serve written notice of the date, time, place and subject matter of the hearing on
   (a) the complainant;
   (b) the respondent; and
   (c) any legal counsel appointed under clause 52(4)(c).

Retaining assistance

(3) A hearing committee may retain any legal or other assistance that it considers necessary for the purposes of conducting a hearing.

Right to appear

(4) The respondent has the right to appear, to be represented by legal counsel, and to examine, cross-examine and re-examine witnesses at a hearing.

Hearing in absence of respondent

(5) Where the respondent fails to appear at a hearing after being served with notice in accordance with subsection (2), the hearing committee may proceed with the hearing in the absence of the respondent and make any decision, determination or order as if the respondent were in attendance. 2013,c.48,s.55.

Powers of hearing committee

56. (1) A hearing committee
   (a) may do all things necessary to provide a full and proper hearing in respect of a complaint;
   (b) may deal with multiple complaints concerning a respondent severally or in combination; and
   (c) may hear any matter in addition to the complaint before the hearing committee that arises in the course of its proceedings and that may demonstrate, in respect of the respondent, professional misconduct or incompetence.

Opportunity to respond

(2) Where a hearing committee hears an additional matter referred to in clause (1)(c), the hearing committee shall give the respondent a reasonable opportunity to respond to the matter.
(3) A hearing shall be open to the public unless the hearing committee is of the opinion that
   (a) the interests of a person other than the respondent may be detrimentally affected if the hearing, or part of the hearing, is not held in private; and
   (b) the desirability of avoiding public disclosure of financial, personal or other matters in the interest of a person affected or in the public interest outweighs the desirability of adhering to the principle that inquiries be open to the public.

(4) A hearing committee may, on the request of a witness whose testimony is of a confidential or personal and sensitive nature, order that no person publish the identity of the witness or any information that could disclose the identity of the witness.

(5) Where a member fails to comply with a subpoena issued by a hearing committee or a member of the hearing committee, or refuses to answer any question under oath directed to be answered by a hearing committee or a member of the hearing committee, the failure or refusal may be held by the hearing committee to be professional misconduct.

(6) A hearing committee is not bound by strict rules of evidence or the provisions of the Evidence Act R.S.P.E.I. 1988, Cap. E-11, 2013,c.48,s.56.

57. (1) The conduct of a respondent may be found to constitute professional misconduct if
   (a) the respondent contravenes this Act, the regulations, the bylaws, standards of practice, code of ethics or practice directions in a manner that, in the opinion of the investigation committee or the hearing committee, relates to the respondent’s suitability to practise a regulated health profession;
   (b) the respondent has been found guilty of an offence that, in the opinion of the investigation committee or the hearing committee, relates to the respondent’s suitability to practise a regulated health profession;
   (c) the respondent refuses or fails to cooperate fully in respect of the investigation or hearing of a complaint;
   (d) the respondent contravenes an order made under this Act; or
   (e) the conduct of the respondent constitutes professional misconduct as set out in the regulations.

(2) The conduct of a respondent may be found to constitute incompetence where
   (a) an act or omission of the respondent
      (i) demonstrates a lack of knowledge, skill or judgment,
      (ii) demonstrates disregard for the safety or welfare of a client, or
(iii) constitutes incompetence as set out in the regulations; or
(b) the respondent is unable to practise a regulated health profession
in accordance with accepted professional standards for any reason,
including that the respondent is impaired by illness, addiction or
other incapacity. 2013,c.48,s.57.

Determination and Order

58. (1) On concluding a hearing, a hearing committee shall determine
whether or not the conduct of the respondent constitutes professional
misconduct or constitutes incompetence.

(2) Where a hearing committee determines that conduct of the
respondent constitutes professional misconduct or incompetence, the
hearing committee may make one or more of the following orders:

(a) an order directing the respondent to undergo additional
education or training;
(b) an order directing the respondent to participate in counselling or
a rehabilitative treatment program;
(c) an order reprimanding the respondent;
(d) an order imposing terms and conditions on the registration of the
respondent;
(e) an order suspending the registration of the respondent for a
specified period of time or until the occurrence of a specified future
event;
(f) an order cancelling the registration of the respondent;
(g) an order requiring the respondent to pay all or part of the costs
incurred by the hearing committee to conduct the hearing;
(h) an order imposing a fine on the respondent in an amount that the
hearing committee considers appropriate, up to a maximum of
$50,000;
(i) an order imposing any other sanction that the hearing committee
considers to be appropriate.

(3) A hearing committee shall not impose a term or condition on a
registration that contravenes the Labour Mobility Act.

(4) Within 30 days after the completion of a hearing, a hearing
committee shall serve

(a) written notice of and reasons for the determination made under
subsection (1), and a copy of any order made under subsection (2),
on
(i) the respondent,
(ii) the complainant,
(iii) the registrar, and
(iv) the Council; and
(b) written notice of the right to appeal the determination made under subsection (1), and any order made under subsection (2), on the respondent.

(5) An order of a hearing committee is in effect when it is served on the respondent and remains in effect pending an appeal unless the Supreme Court, on application, stays the order pending the outcome of the appeal.

(6) A council may advise the public of an order of the investigation committee or a determination or order of the hearing committee upon the terms that the council considers to be necessary in the public interest.

(7) Where a council is satisfied that a respondent has failed to comply with an order of an investigation committee or a hearing committee, the council may, without a further hearing, make an order suspending the respondent’s registration subject to any terms and conditions that the council considers appropriate. 2013,c.48,s.58.

Appeal

59. (1) A complainant may appeal the dismissal of a complaint by the investigation committee under clause 43(a) or 52(1)(a) to the Supreme Court within 30 days after being served with notice of the dismissal.

(2) A respondent may appeal
   (a) an order of a council made under subsection 53(1);
   (b) a determination of a hearing committee made under subsection 58(1); or
   (c) an order of a hearing committee made under subsection 58(2),
   to the Supreme Court within 30 days after being served with notice of the determination or a copy of the order.

(3) Notice of an appeal under subsection (1) or (2) shall be served on every person who was served with notice under subsection (1) or (2), as the case may be, and on the registrar of the college for the respondent’s regulated health profession.

(4) On hearing an appeal, the court may
   (a) confirm, revoke or vary the dismissal, determination or order appealed from;
   (b) refer the matter, or any issue, back to the investigation committee or the hearing committee for further consideration; or
   (c) provide any direction that it considers appropriate.

(5) The court may make any order that it considers appropriate as to the costs of an appeal. 2013,c.48,s.59.
PART VII – OTHER COUNCIL DUTIES AND RESPONSIBILITIES

Continuing Education and Competency

60. (1) A council shall establish and maintain standards and requirements respecting the continuing education and competency of its members in the practice of their regulated health profession.

(2) The requirements respecting continuing education and competency may include

(a) providing continuing education programs or materials related to the practice of the regulated health profession and requiring their use by members;
(b) requiring members to accumulate a specified number of hours of continuing education in various areas of competency in the regulated health profession as a condition of renewal of registration;
(c) specifying the means by which members may satisfy the requirements referred to in clause (b);
(d) other requirements respecting continuing education and competency as set out in the regulations. 2013,c.48,s.60.

Consultation with Minister

61. A college shall consult with the Minister before the college approves or removes a program of study in respect of the practice of the regulated health profession. 2013,c.48,s.61.

Duty of Member to Report

62. (1) A member who has knowledge or has reasonable and probable grounds to believe that a member of the same regulated health profession is unfit to practise or should be restricted in the member’s practice due to a physical or mental condition or disorder shall report the circumstances to the registrar of the member’s college, and shall provide such additional information to the registrar as is known or available to the member.

(2) A member who has knowledge or has reasonable and probable grounds to believe that a member or former member of any regulated health profession has, while a member, committed sexual abuse involving a client or patient shall report the circumstances to the registrar of the other or former member’s regulated health profession, and shall provide such additional information to the registrar as is known or available to the member.

(3) Before making a report under subsection (2), a member shall, if possible
(a) inform the client or patient of the member’s statutory obligation to report; and
(b) encourage the alleged victim to make a complaint to the registrar referred to in subsection (2) and to provide information if requested.

(4) In providing information to the registrar under subsection (2), a member shall not identify the alleged victim unless that person or, if that person is incapable, the person’s representative, consents to the identification.

(5) A member who reports to a registrar under subsection (1) or (2) is not subject to liability as a result of making the report, unless it is established that the report was made maliciously. 2013,c.48,s.62.

PART VIII – HEALTH PROFESSIONS ADVISORY COUNCIL

63. (1) The Health Professions Advisory Council is hereby established.

(2) The Advisory Council shall consist of at least three but not more than seven persons appointed by the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council shall designate one member of the Advisory Council to be the chairperson. 2013,c.48,s.63.

64. A person shall not be appointed as a member of the Advisory Council if the person is
(a) employed in the public service of the province or by a reporting entity as defined in the Financial Administration Act R.S.P.E.I. 1988, Cap. F-9;
(b) a member; or
(c) a practising member of a health profession other than a regulated health profession. 2013,c.48,s.64.

65. (1) The term of office of a member of the Advisory Council is three years.

(2) A member whose term of office expires continues to hold office until
(a) the member resigns or is re-appointed, or a successor is appointed; or
(b) the expiry of three months, whichever occurs first.

(3) On the expiry of the term of a member appointed under subsection (1), the member may be re-appointed for one further term of three years.

(4) The Advisory Council may act despite a vacancy in its membership. 2013,c.48,s.65.
Advice to Minister 66. (1) In addition to its duties under Part IX, the Advisory Council shall, on the Minister’s request, inquire into matters and provide the Minister with advice related to matters under this Act, including advice respecting
(a) whether revisions should be made to the list of reserved activities and, if so, recommendations as to the nature of those revisions;
(b) who may or may not perform a reserved activity;
(c) whether revisions should be made to the scope of practice of a regulated health profession and, if so, recommendations as to the nature of those revisions;
(d) the use of professional or occupational titles and other work-related descriptive terms by members of a regulated health profession or other persons;
(e) the education, training, technical achievement, competencies, credentials and other substantive or procedural entry-to-practice requirements for health professions;
(f) continuing education requirements and programs;
(g) health human resource planning and management;
(h) labour mobility of health professionals within the province or between the province and other provinces or foreign jurisdictions;
and
(i) any other matter related to this Act.

Terms of reference (2) The Minister may establish terms of reference for the Advisory Council to follow in making inquiries, providing advice to the Minister or conducting an investigation.

Advisory function only 67. (1) The function of the Advisory Council is advisory only.

Restrictions (2) The Advisory Council shall not consider or otherwise become involved in any matter respecting
(a) a specific person who is applying for registration or reinstatement of registration; or
(b) a specific member or former member. 2013,c.48,s.67.

Advisory council may seek information 68. In carrying out its duties under this Part and Part IX, the Advisory Council may
(a) consult, as it considers necessary or appropriate, with any person who, in the Advisory Council’s opinion, has expertise or information relevant to the work of the Advisory Council;
(b) receive submissions;
(c) hold public meetings;
(d) conduct or participate in research, studies or activities;
(e) engage, on a temporary basis or for a specific purpose, any person with technical or specialized knowledge of a matter relating to the work of the Advisory Council that the Advisory Council considers necessary or appropriate. 2013,c.48,s.68; 2013,c.21,s.2.

69. The Advisory Council shall meet at the call of the chairperson. 2013,c.48,s.69.

70. Subject to Part IX and the terms of reference established under subsection 66(2), the Advisory Council may determine its own practice and procedure. 2013,c.48,s.70.

71. The Minister may approve the payment of remuneration and reasonable expenses to the Advisory Council members out of money appropriated under an Act of the Legislature for the purposes of this Act. 2013,c.48,s.71.

72. The Advisory Council shall report annually to the Minister, in the form and within the time period specified by the Minister, respecting its activities in the immediately preceding year. 2013,c.48,s.72.

PART IX – NEW REGULATED HEALTH PROFESSIONS

Application

73. (1) A group of persons representing a majority of persons carrying on a health profession may apply to the Minister to have the health profession designated as a regulated health profession under clause 2(1)(a).

(2) The application shall be in the form and contain the information required by the Minister, and shall be accompanied by the prescribed application fee.

(3) Upon receiving an application, the Minister may
(a) direct the Advisory Council to investigate whether the health profession should be regulated under this Act;
(b) refuse the application without investigation; or
(c) approve the application following an investigation or, where in the Minister’s opinion it is in the public interest to do so, without investigation. 2013,c.48,s.73.

Investigation

74. In the absence of an application under section 73, the Minister may
(a) investigate; or
(b) direct the Advisory Council to investigate
whether a health profession should be regulated under this Act. 2013,c.48,s.74.

75. In conducting an investigation, the Advisory Council may investigate as it considers necessary and may do one or more of the following:

(a) determine the proportion of the practitioners of the health profession that are engaged in activities that are under the Minister’s jurisdiction;

(b) evaluate whether the primary objective of the health care provided by the health profession is the prevention of disease or injury and the promotion and restoration of health;

(c) evaluate the degree, if any, of the risk of harm to the health and safety of the public from incompetent, unethical or impaired practice of the health profession, having regard to
   (i) the health care provided by the practitioners,
   (ii) the technology, including instruments and materials, used by the practitioners,
   (iii) the invasiveness of the procedure or mode of treatment used by the practitioners;

(d) evaluate the degree of supervision
   (i) that is necessary, and
   (ii) that a practitioner receives or is likely to receive
with respect to the practice of the health profession;

(e) consider whether there are more appropriate means to regulate the members of the health profession other than under this Act;

(f) consider whether the health profession is a distinct and identifiable profession with a distinct and identifiable body of knowledge that is used by members of the profession to provide health care;

(g) ascertain what the qualifications and minimum standards of competence for persons applying to the practice of the health profession are, and how the continuing education and competence of practitioners is to be maintained;

(h) ascertain what education programs are available with respect to the practice of the health profession and evaluate those programs;

(i) ascertain the ability of the proposed college of the health profession to exercise the powers and carry out the duties of a college under this Act or consider whether this could be accomplished by an existing college;

(j) consider the potential economic impact of regulating the health profession, including the expected effect on practitioner availability, education and training programs, access to service and the quality, cost and efficiency of that service;

(k) consider other prescribed criteria, if any;
(l) consider any other matter, at the Minister’s request.
2013,c.48,s.75.

76. In accordance with the regulations, the Minister may charge to the
organization that made the application under section 73 the costs,
including the administrative costs, incurred to conduct the investigation.
2013,c.48,s.76.

Recommendations

77. (1) Upon completing an investigation, the Advisory Council shall
recommend to the Minister, with reasons, whether or not, in the opinion
of the Advisory Council, it would be in the public interest that the health
profession be regulated under this Act.

(2) If the recommendation is that the health profession be regulated
under this Act, the Advisory Council may also make recommendations
respecting

(a) the college for the proposed regulated health profession,
including whether an existing college may regulate the health
profession;
(b) a proposed scope of practice for the proposed regulated health
profession;
(c) a proposed listing of the reserved activities that members of the
proposed regulated health profession may perform and any
conditions respecting the performance of those activities;
(d) a name and title and initials for the proposed regulated health
profession and its regulated members; and
(e) any other matter that is compatible with its recommendation that
the health profession be regulated under this Act. 2013,c.48,s.77.

78. If the Minister determines, on the recommendation of the Advisory
Council under section 77 or on the Minister’s own initiative pursuant to
clause 74(a), that it would be in the public interest that a health
profession be regulated under this Act, the Minister shall recommend to
the Lieutenant Governor in Council that the health profession be
designated as a regulated health profession pursuant to clause 2(1)(a).
2013,c.48,s.78.

PART X – MINISTERIAL POWERS

Inquiry

79. (1) Where the Minister determines that it is in the public interest to
do so, the Minister may appoint a person to inquire into and make
recommendations about

(a) any aspect of the administration or operation of a college; or
(b) the general state of practice of a regulated health profession.

(2) An inquiry under clause (1)(a) may include an inquiry into an exercise of a power or a performance of a duty, or the failure to exercise a power or perform a duty, under this Act, the regulations or the bylaws.

(3) A person appointed under subsection (1) has the powers and protections of a commissioner under the Public Inquiries Act R.S.P.E.I. 1988, Cap. P-31, when conducting an inquiry under this Act.

(4) A person appointed under subsection (1) shall comply with any terms of reference the Minister may establish concerning the conduct of an inquiry.

(5) The expenses incurred by the government under this section in respect of a college are a debt due by the college to the government and are recoverable in a court of competent jurisdiction. 2013,c.48,s.79.

Directives

(1) Upon completion of an inquiry under section 79, the Minister may, if in the Minister's opinion it is in the public interest to do so, issue a directive to a college respecting the results of the inquiry, including directives respecting matters related to health, safety or adherence to standards in the practice of a regulated health profession.

(2) A directive under subsection (1) may

(a) require a college to exercise the powers or perform its duties under this Act, the regulations or the bylaws to address the issues that were the subject of the inquiry, including the making, amending or revoking of regulations or bylaws;

(b) provide for the procedure to be followed by the college in developing, proposing, consulting on and reviewing a regulation or bylaw; and

(c) include a requirement that the college submit a written report to the Minister, within the specified time, detailing the measures the college has taken to implement that directive.

(3) Notwithstanding clause (2)(a), a directive shall not require a college to

(a) adopt a standard, limit or condition on the practice of the regulated health profession; or

(b) do anything with respect to the registration or discipline of a specific member.

(4) A college shall comply with a directive issued to it under this section. 2013,c.48,s.80.
Administrator

81. (1) The Minister may, by order, do one or more of the following in respect of a college:
   (a) provide for the appointment of one or more persons as administrators of the college for a prescribed term;
   (b) authorize the payment of remuneration or expenses out of the college’s funds to any person appointed as an administrator;
   (c) authorize a person appointed as an administrator to exercise any of the powers and carry out any of the duties of a college, the council, its officers or committees under this Act, the regulations and the bylaws as specified in the order.

(2) The Minister may exercise the power described in subsection (1) only if
   (a) the college requests that the Minister exercise the power; or
   (b) the Minister is of the opinion that it is in the public interest to provide support to the college for the pursuit of its objects and the carrying out of its duties under Part II.

(3) If the Minister appoints an administrator under subsection (1), the Minister may, by order, suspend the powers granted to a college and its council under this Act for the term of the administrator’s appointment.

(4) The exercise of a power or the carrying out of a duty by a person appointed as an administrator under subsection (1) is deemed to be exercise of a power or the carrying out a duty by the college, the council, or their officers or committees.

(5) If, in the Minister’s opinion, an administrator appointed under subsection (1) is no longer required, the Minister may terminate the administrator’s appointment on such terms and conditions as the Minister considers appropriate. 2013,c.48,s.81.

PART XI – GENERAL

Publication

82. (1) Subject to any publication ban ordered by a hearing committee under subsection 56(4), a council may publish the hearing committee’s decision or a summary of the decision by any means it considers appropriate.

(2) Where a respondent’s registration is suspended or cancelled, or terms and conditions are imposed on a respondent’s registration by an investigation committee or a hearing committee, a council may publish a
notice of the suspension, cancellation or terms and conditions in the manner that it considers appropriate to inform the public. 2013,c.48,s.82.

Evidence

83. (1) A certificate respecting a matter dealt with by this Act that purports to be issued by a registrar is admissible in evidence as proof of its contents without proof of the office or signature of the registrar.

(2) A copy of a certificate respecting a matter dealt with by this Act that purports to be certified by a registrar is admissible in evidence as proof of the original document without proof of the office or signature of the registrar. 2013,c.48,s.83.

Limitation of Liability

84. No action or proceeding lies or shall be instituted for anything done or omitted to be done in good faith in the performance or intended performance of any duty or in the exercise or intended exercise of any power under this Act, the regulations or the bylaws made by a council against the following:
   (a) the Minister;
   (b) a college;
   (c) a council;
   (d) registrar;
   (e) an investigator;
   (f) an investigation committee;
   (g) a hearing committee;
   (h) a member of an investigation committee or a hearing committee;
   (i) a member, officer or employee of a council or a college;
   (j) persons acting on behalf of a council or a college under the authority of this Act. 2013,c.48,s.84.

Service of Documents

85. (1) Any notice, order or other document required to be served on a person under this Act, the regulations or the bylaws made by a council is deemed to be sufficiently served
   (a) upon a copy being personally served on the person to whom it is directed;
   (b) upon a copy being sent by facsimile or other electronic means to the person to whom it is directed and an acknowledgement of receipt being received;
   (c) five days after a copy is sent by registered mail addressed to the person to whom it is directed at the last known address for that person; or
(d) in the case of a member, five days after a copy is sent by registered mail addressed to the member at the business address shown in the records of the registrar for the member’s regulated health profession.

(2) Where the person to be served is a corporation, service on a director, officer or recognized agent of the corporation in accordance with subsection (1) is deemed to be service on the corporation for the purposes of this Act.

(3) Service of any document on a council may be made by service on the registrar.

(4) Where it is impractical for any reason to serve an order in a manner referred to in subsection (1), an ex parte application may be made to a judge of the Supreme Court who may make an order for substituted service providing for the steps to be taken to bring the matter to the attention of the person to be served. 2013,c.48,s.85.

PART XII – PROHIBITIONS

Reserved Activities

86. (1) A reserved activity is any one of the following done with respect to a person:

(a) communicating to the person or the person’s personal representative a diagnosis identifying a disease or disorder as the cause of symptoms of the person in circumstances in which it is reasonably foreseeable that the person or the person’s personal representative will rely on the diagnosis;

(b) performing a procedure on tissue below the dermis, below the surface of a mucous membrane, in or below the surface of the cornea, or in or below the surfaces of the teeth, including the scaling of teeth;

(c) setting or casting a fracture of a bone or a dislocation of a joint;

(d) moving the joints of the spine beyond the individual’s usual physiological range of motion using a fast, low amplitude thrust;

(e) administering a substance by injection, inhalation, mechanical ventilation or irrigation;

(f) putting an instrument, hand or finger,

(i) beyond the external ear canal,

(ii) beyond the point in the nasal passages where they normally narrow,

(iii) beyond the larynx,

(iv) beyond the opening of the urethra,

(v) beyond the labia majora,
(vi) beyond the anal verge, or
(vii) into an artificial opening into the body;
(g) applying or ordering the application of a form of energy prescribed by the regulations under this Act;
(h) prescribing, dispensing, selling or compounding a drug as defined in the *Pharmacy Act* R.S.P.E.I. 1988, Cap. P-6.1, or supervising the part of a pharmacy where such drugs are kept;
(i) prescribing or dispensing, for vision or eye problems, subnormal vision devices, corrective or non-corrective contact lenses or eye glasses other than simple magnifiers;
(j) prescribing a hearing aid for a hearing impaired person;
(k) fitting or dispensing a dental prosthesis, orthodontic or periodontal appliance or a device used inside the mouth to protect teeth from abnormal functioning;
(l) managing labour or conducting the delivery of a baby;
(m) allergy challenge testing of a kind in which a positive result of the test is a significant allergic response;
(n) a reserved activity designated in the regulations.

(2) No person shall perform a reserved activity in the course of providing health care services to an individual unless
(a) the person is a member of a regulated health profession, and is authorized by regulation to perform the reserved activity;
(b) the person performing the reserved activity
   (i) has the consent of, and is being supervised by, a member described in clause (a), in accordance with the regulations, and
   (ii) is permitted to perform the reserved activity under the regulations; or
(c) the person is authorized to perform the reserved activity by another Act.

(3) A reserved activity performed by a person does not a contravene subsection (2) if
(a) the person is exempted by regulation; or
(b) the person is a member of a class of persons exempted by regulation.

(4) A reserved activity performed by a person does not contravene subsection (2) if it is done in the course of
(a) an activity or class of activities exempted by regulation;
(b) rendering first aid or temporary assistance in an emergency;
(c) fulfilling the requirements to become a member of a regulated health profession where the reserved activity is within the scope of practice of the health profession and performed under the supervision or direction of a member of the health profession;
(d) treating a person by prayer or other spiritual means in accordance with the tenets of the religion of the person giving the treatment;
(e) treating an aboriginal person or member of an aboriginal community in accordance with traditional healing services that are provided by an aboriginal healer;
(f) treating a member of the person’s own household, where the reserved activity is one set out in clause (1)(a), (e) or (f);
(g) assisting a person with the person’s routine acts of living, where the reserved activity is one set out in clause (1)(e) or (f).

2013,c.48,s.86; 2014,c.39,s.69.

87. No person shall supervise or control another person in the performance of a reserved activity unless the supervisor is authorized to perform the reserved activity. 2013,c.48,s.87.

88. No person shall require another person to perform a reserved activity if that other person is not authorized to perform it. 2013,c.48,s.88.

Use of Title

89. (1) No person, other than a member, shall use the designation of a member of a regulated health profession as set out in the regulations, or any other title, name, description, abbreviation or derivative implying that a person is a member of a regulated health profession.

(2) This section does not apply to
(a) a professor in the field of a regulated health profession while carrying out teaching and research duties, who uses a title or description that clearly indicates professorial status; or
(b) a person
   (i) who is authorized to practise a regulated health profession by a professional regulatory body in another jurisdiction recognized by a council, and
   (ii) whose practice of the regulated health profession in the province consists only of the provision of educational workshops or courses and does not exceed one week in a calendar year.

2013,c.48,s.89.

General

90. No member or health profession corporation shall practise a regulated health profession
(a) in violation of any terms or conditions imposed on the registration of the member or the permit of the health profession corporation; or
(b) while the registration of the member or health profession corporation is suspended. 2013,c.48,s.90.

91. No person shall knowingly furnish false information in any application under this Act, or in any statement or return required to be furnished under this Act, the regulations or the bylaws made by a college. 2013,c.48,s.91.

92. No member or health profession corporation shall engage in advertising that is untruthful, inaccurate or otherwise capable of misleading or misinforming the public. 2013,c.48,s.92.

Offences and Penalties

93. (1) Every person who contravenes
(a) this Act or the regulations; or
(b) an order made by an investigation committee, a hearing committee or a council under this Act or the regulations,
is guilty of an offence and is liable, on summary conviction, to a fine not exceeding $50,000.

(2) Every officer, director or agent of a corporation who directs, authorizes, assents to, acquiesces in, or participates in, the commission of an offence by that corporation is also guilty of the offence and is liable, on summary conviction, to a fine not exceeding $50,000, or to imprisonment for a term not exceeding six months, or both.

(3) Subsection (2) applies whether or not the corporation has been prosecuted for or convicted of the offence. 2013,c.48,s.93.

94. No prosecution for an offence under this Act or the regulations shall be commenced after two years from the date when the offence is alleged to have been committed. 2013,c.48,s.94.

Injunctions

95. Where a person does, or threatens or attempts to do, anything that contravenes this Act or the regulations, the Supreme Court may, on the application of a council, grant an injunction restraining the person from committing or continuing the contravention. 2013,c.48,s.95.

PART XIII – REGULATIONS

Regulations

96. (1) The Lieutenant Governor in Council may make regulations
(a) respecting the types of designations, titles, names, descriptions, abbreviations or derivatives that members or health profession corporations may use;
(b) prescribing additional objects for a college;
(c) respecting changes to the name of a college;
(d) prescribing criteria to be considered in determining whether it would be in the public interest that a health profession become a regulated health profession;
(e) respecting the effect of extra-provincial certification or accreditation in a health profession or a specialized area of practice of a health profession with respect to registration in a college;
(f) respecting revisions to the scope of practice of a regulated health profession;
(g) prescribing fees, or the manner of determining fees, to be submitted with an application under subsection 73(2);
(h) prescribing costs, or the manner of determining costs, for the purposes of section 76;
(i) specifying the reserved activity or activities that a member of a regulated health profession is authorized to perform;
(j) governing the application of a form of energy under clause 86(1)(g);
(k) governing the performance of reserved activities by a person or class of persons exempted under subsection 86(3), and specifying the purposes for which, or the circumstances in which, the reserved activities may be performed;
(l) exempting a person or class of persons for the purpose of clause 86(1)(g);
(m) for the purpose of subsection 86(4), exempting an activity or class of activities;
(n) governing or prohibiting the application of ultrasound, including any application of ultrasound to a fetus, for non-diagnostic imaging purposes;
(o) respecting the designation of additional activities as reserved activities for the purposes of subsection 86(1);
(p) defining any word or phrase used but not defined in this Act;
(q) respecting any other matter necessary or advisable to carry out the intent and purpose of this Act.

(2) Subject to the approval of the Lieutenant Governor in Council, a council may make regulations relating to matters associated with the regulation of entitlement to practice, standards of practice and discipline for a regulated health profession and for any purpose authorized by this Act and, in particular,

(a) respecting the information required to be entered in a register or record of the college and requiring a member or health profession corporation to notify the registrar without delay of any change in the
information entered in the register or record in respect of the member or health profession corporation;
(b) respecting the information entered in a register that is required to be disclosed to any person or to another professional regulatory body;
(c) respecting the procedures and requirements for applications for registration and reinstatement of registration in a register and for renewal of registration or permits, and the information, evidence and supporting material that must be provided with applications;
(d) requiring a member or health profession corporation to notify the registrar without delay of any change in the information provided with an application;
(e) respecting the practicum training, internship and supervised practice requirements for applicants for registration and reinstatement of registration or permits and for renewal of registration or permits, including setting out the circumstances in which any requirements are deemed to have been met;
(f) respecting the procedures and requirements for applications for and renewals of certificates of practice, including the information, evidence and supporting material that must be provided with, and the procedures and requirements for suspension or cancellation of a certificate of practice for the purposes of subsection 20(4);
(g) repealed by 2014,c.46,s.3;
(h) respecting the assessment of the educational qualifications of applicants for registration, including providing for a transitional period for the assessment of educational qualifications obtained within one year after the coming into force of this Act and setting out the circumstances in which any requirements are deemed to have been met;
(i) respecting the examinations required to have been successfully completed by applicants for registration;
(j) respecting the approval of educational institutions and the designation of accreditation bodies for the purposes of Part III;
(k) respecting requirements for currency of professional knowledge and skills for applicants for registration, reinstatement of registration and renewal of registration;
(l) respecting requirements for continuing education and competency for members and establishing a program of continuing education;
(m) respecting the type and amount of professional liability insurance or protection that members and health profession corporations are required to hold;
(n) respecting additional requirements for registration in each register, renewal of a certificate of registration and reinstatement of registration;
(o) respecting the terms and conditions that may be imposed on the registration of a member or the permit of a health profession corporation;
(p) respecting additional circumstances in which the registration of a member or the permit of a health profession corporation may be suspended or cancelled;
(q) respecting the types of names by which
   (i) a health profession corporation,
   (ii) a partnership of health profession corporations, or
   (iii) a partnership of one or more health profession corporations and one or more members, or both, may be known;
(r) restricting the persons or classes of persons with whom a member or class of members may practice in association;
(s) respecting the records and accounts to be kept by members and health profession corporations with respect to their practice;
(t) establishing or adopting standards, codes or guidelines of practice, professional conduct and ethics and providing for the means of making the standards, codes or guidelines available for public inspection;
(u) respecting methods for determining incompetence and the types of conduct that may be found to constitute incompetence;
(v) respecting types of conduct that may be found to constitute professional misconduct;
(w) respecting the procedure to be followed at a hearing by a hearing committee;
(x) respecting the criteria to be considered by a hearing committee in imposing a fine under clause 55(2)(h);
(y) providing that the contravention of specified provisions of the regulations constitutes an offence.

(3) A regulation made under subsection (2) is of no force or effect unless it has been approved by the Lieutenant Governor in Council.

(4) A council shall
   (a) maintain a complete and accurate record of the regulations made by it under subsection (2);
   (b) ensure that the regulations made by it under subsection (2) are available for inspection by any person, free of charge, at all reasonable times during business hours at the office of the council;
   (c) make available a copy of the regulations applicable to the council that are in force, in print or electronically, to each member and health profession corporation governed by the council; and
   (d) if the council maintains a website, post the regulations applicable to the council that are in force on the council’s website.

2013,c.48,s.96; 2013,c.21,s.3; 2014,c.46,s.3.
PART XIV – TRANSITIONAL AND COMMENCEMENT

97. (1) The bylaws of a college that are in effect immediately before the day the college is continued under subclause 2(1)(b)(i) and (iv) continue in force under this Act, to the extent that they are not inconsistent with this Act, until they are repealed or amended or cease to have effect under this Act.

(2) The persons who were elected as members of a council and who hold office immediately before the day the college is continued under this Act are deemed to have been elected under bylaws made by the council under section 10 until such time as their terms would otherwise have expired if the college had not been continued under this Act, unless they sooner cease to hold office under this Act.

(3) The persons who were elected as officers of a college and who hold office immediately before the day the college is continued under this Act, are deemed to have been elected under bylaws made by the council under section 10 of this Act as officers of the college until such time as their terms would otherwise have expired if the college had not been continued under this Act, unless they sooner cease to hold office under this Act.

(4) The persons who have appointments under bylaws of a council that are in effect immediately before the day the college is continued under this Act are deemed to have been appointed as officers of the college under bylaws made by the council under bylaws made by the council under section 10 of this Act until such time as their appointments would otherwise have expired if that Act had not been repealed, unless they sooner cease to hold office under this Act.

(5) A college is composed of those persons who, immediately before the college is continued under subclause 2(b)(i) or (iv), are members of the college, and such other persons who are granted membership in accordance with the bylaws of the college. 2013,c.48,s.97.

98. (1) Where a person, immediately before the person’s health profession is designated as a regulated health profession under clause 2(1)(a), is a member of the health profession under another Act and holds a certificate of registration, or a document equivalent to a certificate of registration, issued under that Act,

(a) the person is deemed to be registered in the register for that regulated health profession; and

(b) the certificate of registration or equivalent document of the person is deemed to have been issued under section 12 of this Act.

(2) Where a person, immediately before the person’s health profession is designated as a regulated health profession under clause 2(1)(a), is a
member under another Act and holds a certificate of practice, or a
document equivalent to a certificate of practice, issued under that Act, the
certificate of practice or equivalent document of the person is deemed to
have been issued under section 20 of this Act.

(3) Where a person is deemed under subsection (1) to be registered in
a register, the registration of the person is subject to any conditions or
restrictions to which the certificate of registration of the person was
subject under the other Act or the regulations made under that Act.

(4) Where a certificate of registration of a person is deemed under
subsection (1) to have been issued under this Act, the certificate of
registration is subject to the expiry date to which the certificate of
registration of the person was subject under the other Act.

(5) Where a certificate of practice of a person is deemed under
subsection (2) to have been issued under this Act, the certificate of
practice is subject to

(a) any conditions or restrictions to which the certificate of
registration of the person was subject under the other Act or the
regulations made under that Act; and

(b) the expiry date to which the certificate of practice of the person
was subject under the other Act. 2013,c.48,s.98.

99. (1) Where, under another Act, a matter was pending before a college
immediately before the day the college was continued under this Act, and
was set for a hearing to commence within 60 days of

(a) the coming into force of this Act; or

(b) the designation of the college’s health profession as a regulated
health profession under clause 2(1)(a),

whichever is the later, the matter shall be concluded under the other Act
as though this Act had not come into force.

(2) Notwithstanding subsection (1), the college and the member whose
conduct is under investigation or is the subject matter of a hearing under
another Act may agree that the matter shall be referred as a complaint to
a hearing committee appointed under subsection 51(1) of this Act, and in
that case the matter shall be concluded under this Act.

(3) Where, under another Act, a matter was pending before a college
immediately before the day the college was continued under this Act, and
was not set for a hearing to commence within 60 days of

(a) the coming into force of this Act; or

(b) the designation of the college’s health profession as a regulated
health profession under clause 2(1)(a),
whichever is the later, the matter shall be referred as a complaint to a hearing committee appointed under subsection 51(1) of this Act, and the matter shall be concluded under this Act.

(4) A complaint made after a health profession is designated as a regulated health profession under clause 2(1)(a) that relates to conduct that occurred in whole or in part before the health profession was designated as a regulated health profession shall be dealt with under this Act.

(5) A direction, decision, action, determination, finding, recommendation or order made or carried out under another Act that is in effect immediately before a college is continued under subclause 2(1)(b)(i) or (iv) continues in effect until it ceases to have effect according to its terms, or is varied or terminated under this Act. 2013,c.48,s.99.