Proposed
Umbrella Health Professions Legislation
for Prince Edward Island

Consultation Paper
August 2012
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The Department of Health and Wellness is pleased to release this Consultation Paper, which proposes new umbrella health professions legislation for many of the health professions that provide health care services on Prince Edward Island.

Health professions regulation in Prince Edward Island presents unique challenges. While most provinces have sufficient numbers of health professionals to make self-regulation possible, the small number of health professionals in Prince Edward Island means that establishing self-regulating organizations for each health profession is often not feasible. Additionally, the preparation and maintenance of stand-alone legislation for every regulated health profession has proven to be impractical. We believe that the umbrella legislation approach to supporting those health professions seeking regulation is an effective tool to address these challenges.

We invite your comments on the proposed legislation. This Consultation Paper will be the focus of consultations with stakeholders before new health professions legislation is introduced in the Legislative Assembly. In order to enable us to complete consultations in a timely manner, we request that your written comments be submitted not later than October 5th, 2012 to:

Department of Health and Wellness
Attn: Nichola M. Hewitt, Legislative Specialist
3rd Floor Sullivan Building
P.O. Box 2000
Charlottetown, PE C1A 7N8
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We look forward to receiving your comments on this important legislative initiative.

Sincerely,

Doug Currie
Minister of Health and Wellness
I. Introduction

Current PEI Health Professions Legislative Structure

On Prince Edward Island, each regulated health profession is governed by its own legislation with the exception of the three regulated dental professions, which are governed together under one Act. There are currently 16 health professions regulated under 14 Acts, with membership in the various health professions ranging from four to 600+ practitioners.

The professions regulate their members through self-governing bodies that administer:

- qualification standards, including education and experience;
- standards of practice;
- a licence or registration process; and
- a complaints or discipline process.

Legislation for the regulation of health professions has the primary objective of protecting the public. Such legislation ensures that only professionals who meet established qualifications are able to provide health care services to the public, and holds professionals accountable for their conduct through a complaints and discipline process. The legislation also sets out the processes by which the standards of practice for health professions can be set and enforced against members of the profession in the public interest.

Regulatory Challenges for PEI Health Professions

There are a number of challenges related to the current regulatory model for health professions on Prince Edward Island. This section summarizes the nature of those challenges.

Current profession-specific legislative model

Currently, each regulated health profession is governed by its own statute, with the exception of some dental professions which are governed under one statute. These professions are typically governed by a corporate body such as a College that has responsibility for setting registration requirements, standards of practice, and discipline. There is variation in how the regulated health professions are governed, due in part to the models for regulation that prevailed at the time that the different statutes were enacted.

Many of the profession-specific statutes need to be updated to ensure that the standards adopted in more recent legislation to promote effective protection of the public and effective regulation are applicable to all professions. The lack of standardization among existing health profession legislation means that the process of updating legislation can consume a significant amount of time and resources. In addition to the regulated health professions, the demand for profession-specific legislation for other health professions means that establishing profession-specific legislation can also be time consuming and an inefficient use of government resources.
Regulatory Model

The current governance model for health professions on Prince Edward Island is not universally appropriate as some health professions do not have sufficient human or financial resources to properly self-regulate. Significant human and financial resources are required to carry out the regulatory function for a health profession. The ability of a profession to maintain effective regulation over its members is particularly difficult where there are small numbers of members in the profession, as is the case for many health professions on Prince Edward Island.

Scope of Practice

A scope of practice for each profession is typically stated in profession-specific legislation to enable a profession to perform certain services in providing health care to patients. It is usually accompanied by a prohibition on any person providing services within that described scope of practice unless the person is licensed under legislation.

The exclusive scope of practice model is challenging for a number of reasons:

- as between regulated health professions, scopes of practice can become blurred where the scopes of practice of different professions overlap;
- scopes of practice are often described in static manner, meaning that developments in the education and skills of a profession may not be reflected in the description of the scope of practice;
- exclusive scopes of practice may unnecessarily inhibit collaboration among different regulated and unregulated health professions.

Requests for Regulation

There are approximately 60 different health care professions represented on Prince Edward Island. Although a number of those professions may not need formal regulation, a number of them have sought or are seeking regulation by means of legislation. The absence of a formal process for professions to apply for self-regulation is particularly challenging for smaller health professions that are seeking the enactment of regulatory legislation. These professions may not have the necessary financial or human resources to adequately advocate for regulation by means of health professions legislation or provide the Government with the information necessary to establish an appropriate regulatory model.

Proposed Legislation

The issue of health professions regulation and legislation has been the subject of many reviews and reports in jurisdictions across Canada. Umbrella health profession legislation has been recommended and implemented in a number of those jurisdictions. The umbrella model of regulation has been incorporated in the proposed legislation.

The proposed legislation will:

- provide for the regulation of health professions designated by regulation;
- allow health professions to continue to be self-regulating;
- continue to place the interests of patients and the public at the centre of the regulatory process;
• offer effective protection for the public by regulating actions or clinical procedures that may present a risk of harm if performed by someone who is not adequately trained;
• establish a process to review requests for regulation of a health profession; and
• remove barriers to interdisciplinary practice.

The proposed legislation will not repeal existing profession-specific legislation. However, health professions currently regulated under profession-specific legislation which requires replacement or amendment may be consulted on the advisability of incorporating those professions under the proposed legislation.

The features of the proposed legislation include:

• one umbrella statute with consistent legislative provisions for governance, registration, complaints, discipline, appeals, public representation, regulation and bylaw making power that will be applicable to all designated health professions;
• flexible administrative, complaint and discipline processes;
• non-exclusive scopes of practice for designated health professions;
• regulating only those activities that pose a threat or risk of harm to patients;
• specific regulations for each designated health profession, which will include scope of practice, standard of practice, qualification standards, use of title, permitted reserved activities and other profession specific matters;
• the continued existence of profession-specific Colleges to provide governance and administration of regulated health professions

Overview of Key Provisions

Governance Model

The proposed legislation provides for the establishment or continuation of profession-specific or multi-profession Colleges, with each College comprised of members of the regulated health profession or professions that it represents. Each College will be governed by a Council comprised of elected members and appointed public representatives. The functions of a Council include registration and licensing, establishment of standards of practice and continuing competency programs, and the administration of a complaints and discipline process.

This model incorporates the benefits associated with existing self-regulatory models for health professions, while pooling the resources of a number of smaller health professions to ensure that self-regulation is feasible and sustainable. It also ensures accountability to the public through the requirement that Councils have public representatives appointed as members.

Registration

The proposed legislation establishes a consistent registration process for all health professions. The process mirrors registration processes present in more recent profession-specific legislation, and includes appeal provisions for those applicants who are refused registration or are approved for registration with terms or conditions.
Business Arrangements

The proposed legislation specifically authorizes regulated health professionals to practice in association with professionals from other regulated health professions to minimize any barriers that prevent health care professionals from working together. Additionally, the legislation will extend the right to establish health profession corporations to all designated health professionals. These provisions are similar to those provisions that currently exist for some of the health professions regulated under profession-specific legislation.

Discipline

The proposed legislation establishes a consistent complaints and discipline process for all designated health professions. The process mirrors the complaints and discipline processes present in recent profession-specific legislation and includes appeal provisions to ensure that principles of fairness and due process are accorded to complainants and respondents alike.

Standards of Practice, Code of Ethics and other Duties

Each Council is required to establish a standard of practice and Code of Ethics for the health professions that are regulated under its mandate. Councils are also responsible for establishing standards for the continuing competency of health professionals and performing practice audits to ensure that health professionals maintain the required skills and experience necessary to ensure protection of the public.

All health professionals regulated under the proposed legislation are required to report another health professional who is suffering from a physical or mental condition or disorder that affects his or her ability to practice. Additionally, health professionals regulated under the proposed legislation are required to report any suspicion that another health professional has sexually assaulted a patient. The proposed legislation provides exclusion of liability for health professionals who make the reports required by these provisions.

Advisory Council

The proposed legislation establishes an Advisory Council to provide advice to the Minister of Health and Wellness on regulatory matters such as the regulation of new professions and the designation of reserved activities.

New Regulated Health Professions

The proposed legislation sets out how unregulated professions may apply to be regulated. Upon receiving an application from an organization that represents the majority of the members of a health profession in the province, the Minister will refer the application to the Advisory Council to investigate and advise whether it is in the public interest to regulate the profession.

Powers of Minister

The Minister of Health and Wellness has the authority under the proposed legislation to intervene in the governance of health professions when a College is having problems in carrying out its regulatory duties.
Reserved Activity Approach

The “reserved activity” approach regulates specific actions or clinical procedures that present a risk of harm to patients rather than focusing on the breadth of practice that is within the exclusive practice of certain regulated health professions. Since many of the reserved activities can be performed competently by more than one regulated health profession, this approach will encourage collaborative care and cost-effective use of health care resources. Health professionals who are not authorized to perform a reserved activity under the proposed legislation will still be able to provide services that are not reserved activities.

Regulation Making Powers

The Lieutenant Governor in Council will possess regulation making authority for numerous matters including but not limited to the designation of health professions to be regulated under the proposed legislation, the designation of reserved activities permitted to be performed by health professionals, and exemptions to the reserved activity restrictions. The Lieutenant Governor in Council will exercise this authority in consultation with the Colleges for each profession regulated under the proposed legislation.

Part II. Questions for Feedback

The Department of Health and Wellness is seeking feedback on the proposed legislation. We ask that you provide your response to the questions outlined below. We also invite you to forward any comments or suggestions that you may have in addition to your responses to our questions.

1. Do you have any concerns respecting the governance structure in the proposed legislation?

2. Do you believe that the proposed governance structure will resolve some of the challenges that exist for establishing and maintaining self-regulating health professions with few members?

3. Do you believe that the proposed process for applications to regulate health professions will resolve some of the challenges that exist for initiating regulation of health professions?

Please note that the focus of these consultations is on seeking feedback on the umbrella model of regulating health professions, not on assessing whether participating professions should be regulated.

Please forward your feedback no later than October 5, 2012 to:

Department of Health and Wellness
Attn: Nichola M. Hewitt, Legislative Specialist
3rd Floor Sullivan Building
P.O. Box 2000
Charlottetown, PE C1A 7N8
nmhewitt@gov.pe.ca
Part III – Proposed Legislation

DISCUSSION DRAFT FOR CONSULTATION PURPOSES ONLY

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” means an individual who is registered in a register of a regulated health profession;

(k) “Minister” means the Minister of Health and Wellness;

(l) “permit” means a permit issued by a registrar under section 17(5) to a health profession corporation certifying that the health profession corporation is authorized to offer the services of one or more members of the regulated health profession as specified in the document;

(m) “public representative” means an individual appointed as a public representative to a council under clause 7(4)(b);

(n) “register” means the register of a regulated health profession kept by a registrar;

(o) “registrar” means the registrar of a college appointed under subsection 10(2);

(p) “regulated health profession” means a health profession designated by regulation as a regulated health profession pursuant to clause 2(1)(a);

(q) “reserved activity” means a reserved activity referred to in subsection 86(2).

PART II – GOVERNANCE

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) In regulations made under subclause (1)(b)(iii) or (iv), the Lieutenant Governor in Council may provide that the bylaws of the college may be applied to
   (a) each regulated health profession separately; or
   (b) two or more of the regulated health professions jointly.

3. A college continued or established pursuant to clause 2(1)(b) is a body corporate.

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 a continuing education program for its members, and develop rules respecting exemptions from the continuing education program requirements in circumstances the college considers appropriate;
      (e) to develop, establish and maintain programs that provide information 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).

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 matter 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).

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 by-laws.

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 subsections (5) and (6), a council shall consist of at least 6 persons who are either
   (a) members of the college, nominated in accordance with the college’s by-laws 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 college established pursuant to subclause 2(1)(b)(iii) or (iv), the council shall consist of
   (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) public representatives appointed by the Lieutenant Governor in Council in accordance with this section.

   (7) A person shall not serve as a public representative on more than one council or committee 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 nine consecutive years.

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

   (11) For the purposes of subsection (9), consecutive means that the member has held office without a break or interruption lasting more than 4 months.

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 by-laws 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 by-laws, in the manner and for the terms specified in the by-laws.

9. (1) The appointment of a member of a council appointed under clause 7(4)(b)
   (a) may be revoked by the Minister
   (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,
  (ii) the member ceases to reside in the province, or
  (iii) the member ceases to be registered or the member’s registration is suspended.

(2) A council may request that the Minister 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, likely to be unable 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)(b) 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.

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) respecting membership, including establishing classes of membership and setting eligibility requirements for membership and classes of membership;
  (i) establishing dues 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 college.

(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.

PART III – REGISTRATION

Register of Regulated Health Profession

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

12. (1) A person may apply to a college, in a form approved by the council, to be registered in a register of a regulated health profession.

(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 for registration in this section and set out in the regulations;
   (b) payment of the fees established by the bylaws.

(3) Subject to section 25, a council shall direct the registrar to register an applicant in a register of a regulated health profession and issue a certificate of registration to the applicant where the council is satisfied that the applicant
   (a) has submitted an application in accordance with subsections (1) and (2);
   (b) is entitled to work in Canada;
   (c) has reasonable proficiency in written and spoken English;
   (d) 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;
   (e) has successfully completed any requirements for doctoral practicum and any internship training and post-doctoral supervised practice as set out in the regulations;
   (f) has successfully completed the examinations required by the regulations;
   (g) meets the requirements for currency of professional knowledge and skills set out in the regulations;
   (h) 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;
   (i) has not been found guilty of an offence that, in the council’s opinion, renders the applicant unsuitable to practise the regulated health profession;
   (j) 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;
   (k) has professional liability insurance as required by the regulations; and
   (l) meets any other requirements set out in the regulations.

(4) An applicant who holds extra-provincial certification that is, in the opinion of the council, substantially equivalent to the registration being applied for is deemed to have met the requirements of clauses (3)(b) to (g).

(5) On receipt of a direction from the council under subsection (3), 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.

13. (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 and 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 in respect of the regulated health profession of the college
(a) the name and business address of the health profession corporation and every shareholder and director of the health profession corporation;
(b) any terms and 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.

14. 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 shareholder and 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.

Special Registration

15. (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 13(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.

Honorary Membership

16. (1) A college may, in accordance with its by-laws, confer an honorary membership in the college on any individual.

(2) An honorary membership does not entitle its holder to practice the regulated health profession of the college or to have the holder’s name entered in the register.

Health Profession Corporations

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

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

(3) Subject to section 35, the council shall direct the registrar to issue a permit to a health profession corporation where the council is satisfied that
(a) the corporation has submitted an application in accordance with subsections (1) and (2);
(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, 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; and
(i) the corporation meets any other requirements for registration set out in the regulations.

(4) For the purposes of subsection (3), “spouse” means an individual who, in respect of another person,
(a) is married to the other person;
(b) has entered into a marriage with the other person that is voidable or void;
(c) is not married to the other person but is cohabiting with the other person in a conjugal relationship and has
done so continuously for a period of at least three years; or
(d) is not married to the other person but is cohabiting with the other person in a conjugal relationship and
 together they are the natural or adoptive parents of a child.

(5) On receipt of a direction from the council under subsection (3), 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.

(6) 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.

(7) A corporation, including a health profession corporation, shall not be registered as a member of a college.

Terms and Conditions

18. (1) A council may, at any time, impose any terms and conditions that it considers appropriate on the registration
or certificate of practice of a member or the permit of a health profession corporation.

(2) The imposition of terms and conditions referred to in subsection (1) is not effective until notice of the
imposition is served on the member or health profession corporation affected by it.

(3) Notwithstanding subsection (1), a council shall not impose on a registration or permit a term or condition that
contravenes the provisions of the Labour Mobility Act.

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 the date specified on the certificate or permit.

(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 issue a replacement certificate of registration or permit, as the case may be.

20. (1) A registrar may, in accordance with the by-laws of a college, issue a certificate of practice to a member on
payment of the practising fee provided for in the by-laws, 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 by-laws of the college;
(c) the member has professional liability insurance 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 by-laws, display the certificate in a conspicuous place in the premises in which the member practises.

(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 by-laws with respect to the certificate of practice; and
(b) pays the renewal fee provided for in the bylaws.

(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).

(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.

(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.

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 as required by the regulations,
shall notify the council for that regulated health profession without delay.

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 council for that regulated health profession, in a form approved by the council, for renewal of the registration or permit, as the case may be.

(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 as set out in
subsection (3) or (4), as the case may be;
(b) payment of the fees established by the bylaws.

(3) Subject to section 25, the council shall direct the registrar to renew the registration of an applicant who is a
member if the council is satisfied that the applicant
(a) has submitted an application in accordance with subsections (1) and (2);
(b) has fulfilled the continuing education requirements as set out in the regulations;
(c) has fulfilled the 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; and
(f) has professional liability insurance as required by the regulations.

(4) Subject to section 25, the council shall direct the Registrar to renew the permit of an applicant that is a health profession corporation if the council is satisfied that the applicant
(a) has submitted an application in accordance with subsections (1) and (2);
(b) continues to meet the requirements set out in clauses 22(3)(b) to (h); and
(c) meets any other requirements set out in the regulations.

(5) On receipt of a direction from the council under subsection (3) or (4), the registrar shall renew the registration of the member or the permit of the health profession corporation, as the case may be.

Cancellation of Registration or Permit

23. (1) A registrar shall cancel the registration of a member or the permit of a health profession corporation whose certificate of registration or permit expires.

(2) Notwithstanding subsection 19(3) or 24(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 the Registrar, in writing, to 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.

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 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(3)(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 a 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 a regulated health profession; or 
(c) ceases to hold professional liability insurance as required by the regulations.

(4) The Council may suspend or cancel the permit of a health profession corporation that ceases 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.

26. (1) On refusing to register or grant 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.

(2) A suspension or cancellation of a registration or permit under section 25 is not effective until notice of the suspension or cancellation is served on the person affected by it.

Appeal

27. (1) A person who is aggrieved by the imposition of terms and conditions on the person’s registration or permit by a council under section 18 may appeal the imposition of the terms and conditions to the Court of Appeal 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 Court of Appeal within 30 days after being served with notice of the refusal, suspension or cancellation.

(3) On hearing an appeal, the Court of Appeal 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 of Appeal may make any order as to the costs of an appeal that it considers appropriate.

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, its 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.

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.

30. 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.

31. A health profession corporation shall notify the Registrar within 15 days of any change in the status of shareholders or directors of the health profession corporation.

Practice in Association

31. (1) In this section, “practice in association” means conducting a practice 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) practice 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.

33. 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.

PART V – STANDARDS OF PRACTICE AND CODE OF ETHICS

34. (1) A council shall, by regulation, establish standards of practice to enhance the quality of practice of members.

(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 copy of every code, standard or guideline adopted by reference under subsection (2) shall be made available for public inspection during normal business hours in the council’s office.

35. (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 copy of the code of ethics shall be made available for public inspection during normal business hours in the council’s office.

36. A member or health profession corporation shall comply with this Act, the regulations, the by-laws, standards of practice, code of ethics, and practice directions respecting the member’s health profession.

PART VI – DISCIPLINE

Interpretation

37. In this Part,

(a) “complaint” means a complaint made or initiated under section 38 or referred to the investigation committee under subsection 40(4);

(b) “complainant” means
(i) a person who makes a complaint to the registrar under subsection 38(1), or
(ii) the registrar, in respect of a complaint initiated by the registrar under subsection 38(4);

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

(d) “hearing committee” means the hearing committee appointed by the council under subsection 51(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(5);

(g) “respondent” means a member or former member who is the subject of a complaint.

Complaint

38. (1) Any person, other than the registrar, may make a complaint to a 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 54.

(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 a 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.

(5) Where
(a) a registrar
   (i) has a conflict of interest regarding a complaint made under subsection (1), or
   (ii) initiates a complaint under subsection (4); and
(b) a deputy registrar has been appointed under subsection 10(5),
the registrar shall refer the complaint to the deputy registrar.

(6) Where a registrar refers a complaint to a deputy registrar under subsection (5),
(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.

39. (1) Within 15 days after the receipt of a complaint under subsection 38(1) or the initiation of a complaint under subsection 38(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 15 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.

(4) Notwithstanding section 40, where
(a) a registrar
   (i) has a conflict of interest in respect of a complaint made under subsection 38(1), or
   (ii) initiates a complaint under subsection 38(4); and
(b) a deputy registrar has not been appointed under subsection 10(5), the registrar shall comply with the requirements of subsection (1) and, immediately after the expiry of the period referred to in subsection (2) and the service of a copy of any response under subsection (3),
(c) refer the complaint, and any response to the complaint submitted under subsection (2), to the investigation committee; and
(d) refrain from participating in any investigation, proceeding or decision in respect of the complaint.

40. (1) A registrar
(a) shall inquire into a complaint to the extent that the registrar determines is warranted; and
(b) may attempt to resolve the complaint informally if the registrar considers informal resolution to be appropriate and not contrary to the public interest.

(2) A registrar shall dismiss a complaint if the registrar finds
(a) that the complaint is frivolous, vexatious or without foundation; 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.

(3) On dismissing a complaint, a registrar shall serve on the complainant and the respondent,
(a) written notice of and reasons for the dismissal; and
(b) written notice of the complainant’s right to request a review of the dismissal under subsection 41(1).

(4) Where a registrar does not dismiss a complaint under subsection (3), the registrar shall refer the complaint to the investigation committee.

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.

(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; or
(b) refer the complaint to an investigator for an investigation.

Investigation Committee

42. (1) On being notified under clause 39(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) 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.

(3) Two members of the investigation committee, one of whom shall be a public representative, constitute a quorum.
(4) 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.

(5) The council may appoint one or more persons as investigators.

Consideration of Complaint

43. Within 30 days after the referral of a complaint to an investigation committee under subsection 39(4) or 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 39(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.

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.

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.

46. 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 39(2).

Investigation

47. (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 undertake the examination of knowledge or skills related to the practice of a regulated health profession that the investigator directs to determine whether or not the respondent is competent to practise the regulated health profession; and
(b) 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.

48. (1) After completing an investigation, the investigation committee or the investigator shall, within a reasonable time, 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) on the complainant and the respondent.

49. (1) An investigation committee shall, after consideration of an investigation report prepared under subsection 48(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 49(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 56(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 49(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 shall

(a) serve written notice of the referral on the complainant, the respondent and the council;
(b) provide the hearing committee with a copy of the complaint and any response to the complaint submitted under subsection 39(2); and
(c) appoint legal counsel to adduce evidence at the hearing.

Interim Order

50. (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 harm to the member’s clients or to the general public, 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 56(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.

Hearing Committee

51. (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.

(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.

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**Hearing**

**52.** (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.

(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) the legal counsel appointed under clause 49(4)(c).

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

(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.

(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.

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**Powers of hearing committee**

**53.** (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.

(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.


Professional misconduct

54. (1) The conduct of a respondent may be found to constitute professional misconduct if
(a) the respondent contravenes this Act, the regulations, the by-laws, 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 a disability, illness, addiction or a condition.

Determination and Order

55. (1) On concluding a hearing, a hearing committee shall determine whether 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 constitutes 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) 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.
(4) 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 Court of Appeal, on application, stays the order pending the outcome of the appeal.

(5) 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.

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

Appeal

56. (1) A complainant may appeal the dismissal of a complaint by the investigation committee under clause 43(a) or 49(1)(a) to the Court of Appeal 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 50(1);
(b) a determination of a hearing committee made under subsection 55(1); or
(c) an order of a hearing committee made under subsection 55(2),
to the Court of Appeal 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) must be served on the registrar of the college for the respondent’s regulated health profession.

(4) On hearing an appeal, the Court of Appeal 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 of Appeal may make any order as to the costs of an appeal that it considers appropriate.

PART VII – OTHER COUNCIL DUTIES AND RESPONSIBILITIES

Continuing Competency

57. (1) A council shall establish a continuing competency program to oversee the practice of its regulated health profession.

(2) A continuing competency program may provide for
(a) reviewing the professional competence of members;
(b) requiring members to participate in programs for ensuring competence; and
(c) conducting practice audits in accordance with this Act.

Practice Auditors

58. A council may appoint one or more practice auditors for the purposes of this Act.

59. (1) A practice auditor may
(a) audit a member’s practice; or
(b) inspect any premises at which a member practises.

(2) A practice auditor shall report the auditor’s findings to the registrar at the conclusion of each audit or inspection.

60. A practice auditor may conduct an audit or inspection of a practice, and share information resulting from the audit or inspection 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.
Consultation with Ministers

61. A college shall consult with the Minister and the Minister of Innovation and Advanced Learning before the college approves or removes a program of study in respect of the practice of the regulated health profession.

PART VIII – DUTIES OF MEMBERS

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 that regulated health profession [or, alternatively, “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 committed sexual abuse involving a 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 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.

PART IX – 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 individuals 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.

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; or
   (b) a member.

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 the member resigns or is re-appointed or a successor is appointed.

(3) A member whose term of office expires may be re-appointed for one further term of three years.

(4) The Advisory Council may act despite a vacancy in its membership.

66. (1) In addition to its duties under Part X, 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 about
   (a) whether revisions should be made to the list of reserved activities;
   (b) who may or may not perform a reserved activity;
(c) the use of professional or occupational titles and other work-related descriptive terms by members of a regulated health profession or other persons;
(d) the education, training, technical achievement, competencies, credentials and other substantive or procedural entry-to-practice requirements for health professions;
(e) continuing competency programs;
(f) health human resource planning and management;
(g) labour mobility of health professionals within the province or between the province and other provinces or foreign jurisdictions; and
(h) any other matter related to this Act.

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

(3) The Advisory Council shall have regard to the terms of reference established under subsection (2).

(4) 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.

67. The function of the Advisory Council is advisory only.

68. In carrying out its duties under this Part and Part X, 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.

69. The Advisory Council shall meet at the call of the chairperson.

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

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.

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.

PART X – 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.
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.

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 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 carry out its powers and duties under
this Act or consider whether they could be carried out 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, price and efficiency
of that service;
(k) consider other prescribed criteria, if any;
(l) consider any other matter, at the Minister’s request.

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

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 the proposed regulated health profession may perform and
any conditions on 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.
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).

PART XI – 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 state of practice of a regulated health profession in the province.

   (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 by-laws.

   (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.

Directives

80. (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 that includes directions to the college 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 by-laws to address the issues that were the subject of the inquiry, including the making, amending or revoking of regulations or by-laws;
   (b) provide for the procedure to be followed by the college in developing, proposing, consulting on and reviewing a regulation or by-law; 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.

Orders

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 carry out as specified in the order any of the powers and duties of a college, officers or committees under this Act, the regulations and the bylaws.

   (2) The Minister may exercise the power described in subsection (1) only if
   (a) the college requests that the Minister exercise the power; or

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(b) the Minister is of the opinion that
   (i) the college, as the case may be, requires support in pursuing its objects and carrying out its duties under
   Part II, or
   (ii) 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 carrying out of a power or duty by a person appointed as an administrator under subsection (1) is deemed
   to be the carrying out of a power or 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.

PART XII – GENERAL

Publication

82. (1) Subject to any publication ban ordered by a hearing committee under subsection 54(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.

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.

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 council;
   (c) a college;
   (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.

Notices

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 (2), 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.

PART XIII – PROHIBITIONS

Reserved Activities

86. (1) No person shall perform a reserved activity set out in subsection (2) 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 paragraph (a), in accordance with the regulations; and
   (ii) is permitted to perform the reserved activity under the regulations;
(c) the person is authorized to perform the reserved activity by another Act; or
(d) the person is authorized to perform the reserved activity by an order under section 90.

(2) A reserved activity is any one of the following done with respect to an individual:
(a) communicating to the individual or the individual’s personal representative a diagnosis identifying a disease or disorder as the cause of symptoms of the individual in circumstances in which it is reasonably foreseeable that the individual or the individual’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 or inhalation;
(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., or supervising the part of a pharmacy where such drugs are kept;
(i) prescribing or dispensing, for vision or eye problems, subnormal vision devices, 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.

(3) A reserved activity performed by a person does not contravene subsection (1) 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 (1) 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 in 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 clauses (2)(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
       clauses (2)(e) or (f).

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.

88. No person shall require another person to perform a reserved activity if that other person is not authorized to
    perform it.

Use of Title

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

(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.

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 health profession
        corporation; or
    (b) while the registration of the member or health profession corporation is suspended.

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.

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

Offences and Penalties

93. Every person who contravenes
    (a) this Act or the regulations; or
(b) an order made by the investigation committee, the 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.

49. (1) 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.

(2) Subsection (1) applies whether or not the corporation has been prosecuted for or convicted of the offence.

95. 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.

Injunctions

96. 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.

PART XIV – REGULATIONS

Regulations

97. (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) prescribing criteria to be considered in determining whether it would be in the public interest that a health profession become a regulated health profession;
(d) prescribing fees, or the manner of determining fees, to be submitted with an application under subsection 73(2);
(e) specifying the reserved activity or activities that a member of a regulated health profession is authorized to perform;
(f) governing the application of a form of energy under clause 86(2)(g);
(g) 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;
(h) exempting a person or class of persons for the purpose of subsection 86(3);
(i) for the purpose of subsection 86(4), exempting an activity or class of activities;
(j) governing or prohibiting the application of ultrasound, including any application of ultrasound to a fetus, for non-diagnostic imaging purposes;
(k) defining any word or phrase used but not defined in this Act;
(l) respecting any other matter necessary or advisable to carry out the intent and purpose of this Act.

(2) The Lieutenant Governor in Council may make regulations for a college
(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 section 20(6);
(g) 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;
(h) respecting the examinations required to have been successfully completed by applicants for registration;
(i) respecting the approval of educational institutions and the designation of accreditation bodies for the purposes of Part III;
(j) respecting requirements for currency of professional knowledge and skills for applicants for registration, reinstatement of registration and renewal of registration;
(k) respecting requirements for continuing education for members and establishing a program of continuing education;
(l) respecting the type and amount of professional liability insurance that members and health profession corporations are required to hold;
(m) respecting additional requirements for registration in each Register, renewal of a certificate of registration and reinstatement of registration;
(n) respecting the terms and conditions that may be imposed on the registration of a member or the permit of a health profession corporation;
(o) respecting additional circumstances in which the registration of a member or the permit of a health profession corporation may be suspended or cancelled;
(p) 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;
(q) restricting the persons or classes of persons with whom a member or class of members may practice in association;
(r) respecting the records and accounts to be kept by members and health profession corporations with respect to their practice;
(s) establishing or adopting standards, codes or guidelines of practice, professional conduct and ethics;
(t) respecting methods for determining incompetence and the types of acts or omissions that may be found to constitute incompetence;
(u) respecting types of acts or omissions that may be found to constitute professional misconduct;
(v) respecting the procedure to be followed at a hearing by a hearing committee;
(w) respecting the amount of the fine that may be imposed on a respondent under an order made by a hearing committee under clause 63(2)(h), or the criteria to guide the determination of the amount of fine;
(x) providing that the contravention of specified provisions of the regulations constitutes an offence.

PART XV – TRANSITIONAL AND COMMENCEMENT

98. (1) The bylaws of a college continued under subclause 2(1)(b)(i) that are in effect immediately before the day the college is continued under this Act 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 college under section 8 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 XX 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 section XX 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 date that this section comes into force, are members of the college continued under subclause 2(1)(b)(i), and such other persons who are granted membership in accordance with the bylaws of the college.

99. (1) Where a person, immediately before the day this Act comes into force, is a member 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 a 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 day this Act comes into force, 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.

100. (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 the coming into force of this Act, 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 49(1) of this Act, and the complaint 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 the coming into force of this Act, the matter shall be referred as a complaint to a hearing committee appointed under subsection 62(1) of this Act, and the complaint shall be concluded under this Act.

(4) A complaint made after the day this Act applies to a regulated health profession that relates to conduct that occurred in whole or in part before the day this Act comes into force 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 the day this Act applies to a college continues in effect until it ceases to have effect under this Act.
101. This Act comes into force on a date that may be fixed by proclamation of the Lieutenant Governor in Council.