



Province of Alberta

# **HEALTH PROFESSIONS ACT**

Revised Statutes of Alberta 2000  
Chapter H-7

Current as of December 15, 2017

Office Consolidation

© Published by Alberta Queen's Printer

Alberta Queen's Printer  
Suite 700, Park Plaza  
10611 - 98 Avenue  
Edmonton, AB T5K 2P7  
Phone: 780-427-4952  
Fax: 780-452-0668

E-mail: [qp@gov.ab.ca](mailto:qp@gov.ab.ca)  
Shop on-line at [www.qp.alberta.ca](http://www.qp.alberta.ca)

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### Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

### Amendments Not in Force

This consolidation incorporates only those amendments in force on the consolidation date shown on the cover. It does not include the following amendments:

2017 c22 s24 amends Schedule 19 ss1, 2 to 5, adds s7.1 and 8.1, repeals ss9, 10, 11(2) to (6) and 12.

2008 c34 s12 (2011 c14 s11 effective October 1, 2011) adds s122.1.

2008 c34 s13 amends s126(1), s15 amends s134.

### Regulations

The following is a list of the regulations made under the *Health Professions Act* that are filed as Alberta Regulations under the Regulations Act

	<b>Alta. Reg.</b>	<i>Amendments</i>
<b>Health Professions Act</b>		
Chiropractors Profession .....	277/2006	
Combined Laboratory and X-ray Technologists Profession .....	224/2005	
Consultation .....	133/2008	
Dental Assistants Profession .....	252/2005	
Dental Hygienists Profession .....	255/2006	
Dental Surgical Facility Accreditation .....	250/2002	
Dental Technologists Profession .....	243/2004	170/2012
Dentists Profession .....	254/2001	170/2012

Denturists Profession .....	186/2002	.....	269/2009
Disclosure of Information .....	196/2004	.....	99/2009, 120/2014
Hearing Aid Practitioners			
Profession.....	123/2002		
Licensed Practical Nurses Profession.....	81/2003		
Medical Diagnostic and Therapeutic			
Technologists Profession.....	61/2005	.....	113/2009
Medical Laboratory Technologists			
Profession.....	255/2001	.....	76/2007
Naturopaths Profession .....	126/2012		
Occupational Therapists Profession .....	217/2006		
Opticians Profession.....	45/2011		
Optometrists Profession .....	83/2003	.....	103/2015
Paramedics Profession .....	151/2016		
Pharmacists and Pharmacy			
Technicians Profession.....	129/2006	.....	90/2011
Physical Therapists Profession.....	64/2011		
Physicians, Surgeons and Osteopaths			
Profession.....	350/2009	.....	59/2012
Podiatrists Profession .....	60/2012		
Psychologists Profession .....	251/2005		
Registered Dietitians and Registered			
Nutritionists Profession.....	79/2002	.....	147/2004
Registered Nurses Profession.....	232/2005		
Registered Psychiatric and Mental			
Deficiency Nurses Profession .....	231/2005		
Respiratory Therapists Profession.....	137/2009		
Social Workers Profession .....	82/2003	.....	68/2008, 31/2012, 170/2012
Speech-Language Pathologists and			
Audiologists Profession .....	124/2002		



# HEALTH PROFESSIONS ACT

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

#### **Interpretation**

**1(1)** In this Act,

- (a) “Advisory Board” means the Health Professions Advisory Board established under Part 1;
- (b) “alternative complaint resolution process” means a process to help the complainant, the college and the investigated person settle a complaint;
- (c) “annual permit” means a permit issued to a professional corporation under this Act;
- (d) “code of ethics” means a code of ethics adopted by a council under Part 8;
- (e) “college” means the college of a regulated profession;
- (f) “competence” means the combined knowledge, skills, attitudes and judgment required to provide professional services;
- (g) “competence committee” means a competence committee established under this Act;
- (h) “complaint review committee” means a complaint review committee established under Part 1;

- (i) “complaints director” means the complaints director of a college;
- (j) “conduct” includes an act or omission;
- (k) “continuing competence program” means a program of continuing competence provided for in the regulations;
- (l) “council” means the council of a college;
- (m) “document” includes recorded information in written, photographic, magnetic, electronic or other form;
- (n) “former Act” means an Act that regulated a profession immediately before this Act began to regulate that profession;
- (o) “former member” means a person who
  - (i) has had but no longer has a practice permit under this Act, or
  - (ii) has been but has ceased to be a regulated member pursuant to this Act or a member who was regulated under a former Act;
- (p) “health service” means a service provided to people
  - (i) to protect, promote or maintain their health,
  - (ii) to prevent illness,
  - (iii) to diagnose, treat or rehabilitate, or
  - (iv) to take care of the health needs of the ill, disabled, injured or dying;
- (q) “hearing tribunal” means a hearing tribunal established under Part 1;
- (r) “hearings director” means the hearings director of a college;
- (s) “incapacitated” means suffering from a physical, mental or emotional condition or disorder or an addiction to alcohol or drugs as defined in the *Pharmacy and Drug Act* or other chemicals that impairs the ability to provide professional services in a safe and competent manner;
- (s.1) “inspector” means an inspector of a college appointed under Part 3.1;

- (t) “investigated person” means a person with respect to whom
  - (i) a complaint has been made under Part 4,
  - (ii) information has been treated as a complaint in accordance with section 56, or
  - (iii) a notice has been given under section 57(1),and the proceedings with respect to the complaint, information or notice have not been concluded;
- (u) “investigator” means the complaints director or other person who conducts an investigation under Part 4;
- (v) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (w) “Ombudsman” means the Ombudsman appointed under the *Ombudsman Act*;
- (x) “other member” means a non-regulated member of a college registered on a register established under section 33(1)(b);
- (y) repealed 2016 c9 s2;
- (z) “practice” means the practice of a regulated profession within the meaning of section 3 of a schedule to this Act;
- (aa) “practice permit” means a practice permit issued to a regulated member under Part 2;
- (bb) “practice visit” means a practice visit within the meaning of Part 3;
- (cc) “president” means the president of a college;
- (dd) “professional corporation” means professional corporation within the meaning of Part 5;
- (ee) “professional fee” means a fee charged by a regulated member for a professional service;
- (ff) “professional service” means a service that comes within the practice of a regulated profession;
- (gg) “public member” means a person appointed as a public member under this Act;

- (hh) “ratified settlement” means a settlement ratified under section 60(2);
- (ii) “record of the hearing” means the record described in section 84(1)(b);
- (jj) “registrar” means the registrar of a college;
- (kk) “registration committee” means a registration committee established under Part 1;
- (ll) “regulated member” means a person who is registered as a member under section 33(1)(a);
- (mm) “regulated profession” means a profession that is regulated by this Act;
- (nn) “restricted activity” means a restricted activity and a portion of a restricted activity, within the meaning of Schedule 7.1 to the *Government Organization Act*;
- (oo) “standards of practice” means standards of practice adopted by a council under Part 8;
- (pp) “unprofessional conduct” means one or more of the following, whether or not it is disgraceful or dishonourable:
  - (i) displaying a lack of knowledge of or lack of skill or judgment in the provision of professional services;
  - (ii) contravention of this Act, a code of ethics or standards of practice;
  - (iii) contravention of another enactment that applies to the profession;
  - (iv) representing or holding out that a person was a regulated member and in good standing while the person’s registration or practice permit was suspended or cancelled;
  - (v) representing or holding out that person’s registration or practice permit is not subject to conditions when it is or misrepresenting the conditions;
  - (vi) failure or refusal
    - (A) to comply with the requirements of the continuing competence program, or

- (B) to co-operate with a competence committee or a person appointed under section 11 undertaking a practice visit;
- (vi.1) failure or refusal
  - (A) to comply with a request of or co-operate with an inspector;
  - (B) to comply with a direction of the registrar made under section 53.4(3);
- (vii) failure or refusal
  - (A) to comply with an agreement that is part of a ratified settlement,
  - (B) to comply with a request of or co-operate with an investigator,
  - (C) to undergo an examination under section 118, or
  - (D) to comply with a notice to attend or a notice to produce under Part 4;
- (viii) contravening an order under Part 4, conditions imposed on a practice permit or a direction under section 118(4);
- (ix) carrying on the practice of the regulated profession with a person who is contravening section 98 or an order under Part 4 or conditions imposed on a practice permit or a direction under section 118(4);
- (x) carrying on the practice of the regulated profession of physicians, surgeons, osteopaths, dentists, chiropractors or optometrists on behalf of a corporation that does not meet the requirements of sections 104 to 115 or as a partner of a partnership that does not meet the requirements of section 98(3);
- (xi) repealed 2016 c9 s2;
- (xii) conduct that harms the integrity of the regulated profession;
- (qq) “unprofessional conduct fines table” means the unprofessional conduct fines table in Part 10.

(2) In this Act,



- (a) a reference to “this Act” includes the regulations under this Act;
- (b) a reference to a power and duty includes the power and duty to make a decision;
- (c) a reference to conditions includes restrictions and limitations.

RSA 2000 cH-7 s1;RSA 2000 cP-13 s48;  
2006 c19 s2(22);2008 c34 s2;2016 c9 s2

#### **Public health threat**

**1.1(1)** Despite this Act, the bylaws and any enactment that governs the practice of a regulated member or health practitioner, college or regulatory organization, if any of the following persons knows of or has reason to suspect the existence of a nuisance or a threat that is or may be injurious or dangerous to the public health, that person must immediately notify the medical officer of health of the appropriate regional health authority by the fastest means possible:

- (a) a regulated member;
- (b) a health practitioner who provides health services described in a Schedule;
- (c) a member of a council of, or an officer, employee or agent of, a college;
- (d) a member of a board or council of, or an officer, employee or agent of, a regulatory organization that governs the practice of a health practitioner who provides health services described in a Schedule.

**(2)** The definitions in the *Public Health Act* apply to this section.  
2007 c32 s1(2)

## **Part 1 Governance**

### **College**

#### **College established**

**2** A college is a corporation that

- (a) is created or continued in a schedule to this Act,
- (b) consists of its regulated members and other members, and

- (c) has the capacity and, subject to this Act, the rights, powers and privileges of a natural person.

1999 cH-5.5 s2

**College's role****3(1)** A college

- (a) must carry out its activities and govern its regulated members in a manner that protects and serves the public interest,
- (b) must provide direction to and regulate the practice of the regulated profession by its regulated members,
- (c) must establish, maintain and enforce standards for registration and of continuing competence and standards of practice of the regulated profession,
- (d) must establish, maintain and enforce a code of ethics,
- (e) carry on the activities of the college and perform other duties and functions by the exercise of the powers conferred by this Act, and
- (f) may approve programs of study and education courses for the purposes of registration requirements.

**(2)** A college may not set professional fees, provide guidelines for professional fees or negotiate professional fees on behalf of some or all of its regulated members unless the Minister grants the college an approval under section 27.

**(3)** A college or a council or committee of a college may not be a certified bargaining agent as defined in the *Labour Relations Code*.

RSA 2000 cH-7 s3;2001 c21 s2

**Annual report**

**4(1)** A college must submit to the Minister an annual report of its activities in a form acceptable to the Minister that contains the information requested by the Minister, including but not restricted to

- (a) a statement respecting the number of complaints made and their disposition, including the number of hearings closed to the public in whole or in part, the number of appeals and the number of regulated members dealt with under section 118;
- (b) information respecting registration;

- (c) a description of and information about the college's continuing competence program;
  - (c.1) a description of and information about inspections under Part 3.1;
  - (d) whether the college has an approval under section 27 and, if so, a statement describing how it is complying with conditions imposed on the approval, if any;
  - (e) a statement respecting the committees and tribunals established under this Act;
  - (f) audited financial information or financial information in a form and manner satisfactory to the Minister.
- (2) On receipt of a report under subsection (1), the Minister must lay a copy of it before the Legislative Assembly if it is then sitting or, if it is not then sitting, within 15 days after the commencement of the next sitting.
- (3) The Minister may, to ensure that the requirements of this Act are met, require reports from the college in addition to the annual report under subsection (1).

RSA 2000 cH-7 s4;2008 c34 s3

### **Council, President and Registrar**

#### **Council established**

- 5(1)** The governing body of a college is the council.
- (2)** The council consists of the president and
- (a) the regulated members provided for in the bylaws,
  - (b) the non-voting members, if any, provided for in the bylaws, and
  - (c) subject to section 12(1), the number of public members appointed by the Lieutenant Governor in Council.
- (3)** The president and members described in subsection (2)(a) and (c) are the voting members of the council.
- (4)** A member described in subsection (2)(a), (b) or (c) continues to hold office after the expiry of the member's term until the member is reappointed or re-elected or a successor is appointed or elected.
- (5)** Despite section 12, if a member described in subsection (2)(a), (b) or (c) is not capable of carrying out the powers and duties of a

member, the council may continue to carry out its powers and duties until a successor is appointed or elected.

1999 cH-5.5 s5

#### **Council's role**

**6** A council manages and conducts the activities of the college, exercises the rights, powers and privileges and carries out the duties of the college in the name of and on behalf of the college and carries out the powers and duties of the council under this Act and the bylaws.

1999 cH-5.5 s6

#### **President**

**7** A council must appoint, elect or provide for the appointment or election of an individual to be president for the purposes of this Act.

1999 cH-5.5 s7

#### **Registrar**

**8** A council must appoint or provide for the appointment of an individual as registrar for the purposes of this Act.

1999 cH-5.5 s8

### **Committees and Tribunals**

#### **Registration committee**

**9(1)** A council

- (a) may establish a registration committee consisting of no fewer than 3 members, the majority of which must be regulated members, and
- (b) if a registration committee is established, must designate a member of that committee to act as chair.

**(2)** A member of a registration committee continues to hold office after the expiry of the member's term until the member is reappointed or a successor is appointed.

**(3)** Despite subsection (1), if a member of a registration committee is not capable of carrying out the powers and duties of a member, the registration committee may continue a review of an application in which the member was participating, and the registration committee may carry out its powers and duties with respect to that review.

**(4)** A registration committee may,

- (a) if provided for in the bylaws, review an application for registration, and

- (b) undertake any other power or duty given to it under this Act or the bylaws.

1999 cH-5.5 s9

**Competence committee****10(1)** A council

- (a) may establish a competence committee, and
  - (b) must establish the competence committee if the college is authorized by regulation to undertake practice visits.
- (2)** A competence committee must consist of no fewer than 3 members appointed by the council and the majority of members must be regulated members and the council must designate a member of that committee to act as chair.
- (3)** A council may, by bylaw, direct the registration committee to carry out the powers and duties of a competence committee except those described in subsection (6)(b).
- (4)** A member of a competence committee continues to hold office after the expiry of the member's term until the member is reappointed or a successor is appointed.
- (5)** Despite section 12, if a member of a competence committee is not capable of carrying out the powers and duties of a member, the competence committee may continue to conduct a practice visit in which the member was participating, and the competence committee may carry out its powers and duties with respect to that practice visit.
- (6)** A competence committee
- (a) may make recommendations to the council on continuing competence requirements and the assessment of those requirements,
  - (b) may, if authorized by the regulations, provide for practice visits as part of the continuing competence program and conduct a practice visit of regulated members, and
  - (c) may undertake any other power or duty given to it under this Act or the bylaws.
- (7)** Despite subsection (6) and section 20, if a competence committee is authorized to conduct practice visits it shall not carry out any powers or duties under sections 28 to 30.

RSA 2000 cH-7 s10;2008 c34 s4

**Competence committee appointee**

**11** A competence committee may appoint one or more persons who have technical expertise or other relevant knowledge to inquire into and report to the competence committee with respect to any matter related to any power or duty of the competence committee.

RSA 2000 cH-7 s11;2007 c32 s1(3)

**Required public members**

**12(1)** Twenty-five percent of the voting members of a council, a complaint review committee and a hearing tribunal and of a panel of any of them must be public members but with the consent of the council the percentage of the public members may be greater than 25%.

**(2)** Despite the bylaws governing quorum, the number of public members required by subsection (1) must be present at an appeal under Part 4 before a council, a ratification of a settlement and a review by a complaint review committee and a hearing by a hearing tribunal.

**(3)** Despite subsections (1) and (2), the powers and duties of a council, complaint review committee or hearing tribunal or a panel of any of them are not affected by a vacancy in the office of a public member for up to 6 months from the date that the schedule to this Act that governs the college comes into force.

RSA 2000 cH-7 s12;2007 c32 s1(4)

**Public members appointed, lists**

**13(1)** Subject to subsection (2), the Lieutenant Governor in Council

- (a) may, after the Minister has consulted with the affected council, appoint and rescind the appointment of public members to a council, and
- (b) may appoint persons to a list of public members for the purpose of establishing complaint review committees and hearing tribunals.

**(2)** The following are not eligible to be appointed as public members:

- (a) with respect to an appointment to a council, a person who is a regulated member of that college;
- (b) a person who represents or is normally engaged in representing a group of employees who are regulated members in the negotiation of collective bargaining agreements or in any proceedings under a collective bargaining agreement with respect to regulated members

or who negotiates or sets professional fees or guidelines on professional fees on or on behalf of regulated members of a college;

- (c) a member or officer of a regional health authority or the Advisory Board.

**(3)** The public members of a complaint review committee and a hearing tribunal are the persons designated by a hearings director from the list, established under subsection (1)(b), of public members, other than regulated members of the college.

**(4)** A public member may be appointed to a list of public members for a term of up to 3 years and may be reappointed, but may not be appointed for more than 6 consecutive years.

**(4.1)** A public member may be appointed to a council for a term of up to 3 years and may be reappointed, but may not be appointed for more than 6 consecutive years.

**(5)** Despite subsection (4.1), a member of a council appointed under subsection (1)(a) continues to be an appointed member after the expiry of the term of the appointment until the member is reappointed, the member's appointment is rescinded or a successor is appointed.

**(6)** Public members under this section may, at the rates prescribed by the Lieutenant Governor in Council, be paid remuneration for their services by and receive reasonable living and travelling expenses from the Government incurred in the course of their duties as members.

RSA 2000 cH-7 s13;2006 c19 s2(2);2008 cH-4.3 s19

#### **Hearings director, complaints director**

**14(1)** A council must provide for the appointment of an individual as a hearings director for the purposes of this Act.

**(2)** A hearings director may not chair nor participate in a hearing, review or appeal under Part 4.

**(3)** A council must provide for the appointment of an individual as a complaints director for the purposes of this Act.

1999 cH-5.5 s14

#### **Membership lists**

**15(1)** A council must appoint members to a membership list consisting of no fewer than 4 regulated members to be used for appointing members to both hearing tribunals and complaint review committees.

(2) Only regulated members are eligible to be included on a list referred to in subsection (1).

1999 cH-5.5 s15

**Tribunal, complaint review committee established**

**16(1)** The hearings director may establish a hearing tribunal and a complaint review committee consisting of

- (a) 2 or more members from the membership list established under section 15, and
- (b) the number of public members required by section 12(1),

and if a hearing tribunal or complaint review committee is established, the hearings director must designate a member of that tribunal or committee to act as chair.

(2) Despite section 13(4), a member of a hearing tribunal or of a complaint review committee continues to hold office after the expiry of the member's term until the member is reappointed or a successor is appointed.

(3) Despite section 12(2), if a member of a hearing tribunal or of a complaint review committee is not capable of carrying out the powers and duties of a member,

- (a) the hearing tribunal may continue to hold a hearing in which the member was participating and the hearing tribunal may carry out its powers and duties with respect to that hearing, and
- (b) the complaint review committee may continue to review and ratify a settlement under section 60 and to conduct a review under section 68 in which the member was participating and the complaint review committee may carry out its powers and duties with respect to that settlement or review.

(4) All members of a hearing tribunal and of a complaint review committee are voting members.

(5) The hearings director may direct one or more hearing tribunals or complaint review committees established under this section to carry out any power or duty that a hearing tribunal or complaint review committee may carry out under this Act.

1999 cH-5.5 s16

**Tribunal, committee powers, duties**

**17(1)** A hearing tribunal's powers and duties include holding hearings under this Act.



(2) A complaint review committee's powers and duties include reviewing and ratifying settlements under section 60 and conducting reviews under section 68.

1999 cH-5.5 s17

## Panels

### Council, committee panels

**18(1)** Subject to section 12,

- (a) a person or committee designated by a council may designate 3 or more members of council to sit as a panel of council and designate a member of the panel to act as chair, or
- (b) the chair of the registration committee and of the competence committee may designate 3 or more members of the registration committee or competence committee to sit as a panel of the registration committee or competence committee and designate a member of the panel to act as chair.

(2) A person or committee designated by a council may direct a panel of the council to carry out the powers and duties of the council with respect to a review under Part 2 and an appeal under Part 4 or section 118.

(3) The chair of the registration committee or of the competence committee may direct a panel of the registration committee or of the competence committee to carry out any power or duty that the registration committee or competence committee may carry out under this Act.

(4) If a member designated under subsection (1) is not capable of carrying out the powers and duties of a member, the panel may continue an appeal or review an application in which the member was participating and the panel may carry out its powers and duties with respect to that appeal or application.

(5) A power or duty carried out by a panel of the council, of the registration committee or the competence committee is a power or duty carried out by the council, registration committee or competence committee.

(6) Two or more panels of the council, of the registration committee or of the competence committee may carry out their powers and duties simultaneously.

(7) Any reference in this Act or any other enactment to a council, registration committee or competence committee is deemed to be

also a reference to a panel of the council, of the registration committee or of the competence committee.

RSA 2000 cH-7 s18;2007 c32 s1(5)

## Delegation

### Council delegation

**19(1)** A council may delegate any of its powers and duties to one or more persons or committees, except the power to make regulations or bylaws and to adopt a code of ethics or standards of practice.

**(2)** A council may impose conditions on a delegation under subsection (1).

**(3)** When a council delegates a power or duty, it may authorize the person or committee to further delegate the power or duty, subject to any conditions imposed by the council.

**(4)** Any reference in this Act or any other enactment to a council is deemed to be also a reference to a delegate and to a delegate of the delegate under this section.

1999 cH-5.5 s19;2000 c15 s4(3)

### Person, committee delegation

**20(1)** Subject to the bylaws, a person or committee to whom a power or duty is given under this Act or the bylaws may delegate the power or duty to one or more other persons or committees.

**(2)** A person or committee making a delegation under subsection (1) may impose conditions on the delegation.

**(3)** Despite subsection (1),

- (a) the powers and duties of both a complaints director and a hearings director may not be delegated to the same person, and
- (b) a complaint review committee, a hearing tribunal or a council or panel of council may not delegate its powers or duties with respect to a review or appeal under Part 4.

**(4)** Any reference in this Act or any other enactment to a person or committee to whom a power or duty is given under this Act is deemed to be also a reference to a delegate of the person or committee under this section.

1999 cH-5.5 s20

### Officials directory

**21(1)** The council must establish and keep up to date a directory that contains the names of and how to contact

- (a) the complaints director and any delegate;
  - (b) the hearings director and any delegate;
  - (c) the registrar and any delegate;
  - (d) the president and any delegate;
  - (e) the council and any delegate and any delegate of the delegate.
- (2) The information under subsection (1) must, on request,
- (a) be made available to the public during regular business hours, and
  - (b) be provided to the Minister.

1999 cH-5.5 s21

### **Advisory Board**

#### **Advisory Board established**

- 22(1)** The Health Professions Advisory Board is established.
- (2) The Advisory Board consists of
- (a) not more than 12 persons appointed as voting members by the Lieutenant Governor in Council, of which at least 25% must be regulated members or registered members of a profession whose registered members are authorized, by statute, to provide health services, and
  - (b) the following non-voting members, who must be employees of the Government:
    - (i) one employee designated by the Deputy Minister of Human Services;
    - (ii) one employee designated by the Deputy Minister of Health;
    - (iii) one employee designated by the Deputy Minister of Enterprise and Advanced Education.
    - (iv) repealed 2013 c10 s17.
- (3) A person may be appointed under subsection (2)(a) for a term of up to 3 years and may be reappointed, but may not be appointed for more than 6 consecutive years.
- (3.1) A member described in subsection (2)(a) continues to hold office after the expiry of the member's term until the member is

reappointed, the member's appointment is rescinded or a successor is appointed.

(4) The powers and duties of the Advisory Board are not affected

(a) subject to subsection (5), by the failure of a voting member to attend a meeting of the Advisory Board, or

(b) by a vacancy in the office of a voting member.

(5) The quorum is at least 1/2 of the persons appointed as voting members.

(6) The Lieutenant Governor in Council may designate a chair of the Advisory Board from among the voting members and in the absence or inability of the chair to act the voting members may designate a voting member as acting chair.

(7) Voting members appointed under this section may be paid remuneration and for reasonable living and travelling expenses incurred while away from their ordinary places of residence in the course of their duties as members at the rates prescribed by the Lieutenant Governor in Council in accordance with any applicable regulations under the *Alberta Public Agencies Governance Act*.

(7.1) If regulations under the *Alberta Public Agencies Governance Act* establish rates in respect of remuneration or expenses referred to in subsection (7), those regulations prevail, to the extent of any conflict or inconsistency, over any regulations prescribing a rate under that subsection.

(8) The Minister may provide administrative, secretarial and clerical services required by the Advisory Board.

RSA 2000 cH-7 s22;2006 c19 s2(3);2007 c32 s1(6);  
2009 cA-31.5 s49;2013 c10 s17

#### **Advisory Board's role**

**23** The Advisory Board may, on the request of the Minister, investigate and provide the Minister with advice related to this Act and Schedule 7.1 to the *Government Organization Act*.

1999 cH-5.5 s23

#### **Advisory Board meetings**

**24(1)** The Advisory Board must give the colleges reasonable notice of the matters to be discussed at a meeting of the Advisory Board and allow them to make submissions.

(2) A meeting of the Advisory Board must be open to the public unless the Advisory Board determines that the meeting should be closed for the purposes of discussion and voting.

(3) The portion of an Advisory Board meeting when submissions are presented must be open to the public unless the Advisory Board is satisfied that the interests of the person making the submission, or of any other person, would be detrimentally affected if the submission were not presented in private.

1999 cH-5.5 s24

### **Regulated Professions**

#### **Applying to be a regulated profession**

**25(1)** A group of persons seeking to be a regulated profession must apply to the Minister for recommendation to the Legislature that this Act be amended to include the profession as a regulated profession.

(2) An application under subsection (1)

- (a) repealed 2006 c19 s2,
- (b) must be in the form and contain the information requested by the Minister, and
- (c) must be accompanied with the application fee set by the Minister.

(3) On receipt of an application under subsection (1), if the Minister is satisfied that it is in the public interest the Minister may direct the Advisory Board to investigate whether the profession should be regulated under this Act.

(4) When conducting an investigation under subsection (3), the Advisory Board may investigate as it considers necessary and, without limiting the generality of the foregoing, may do one or more of the following:

- (a) evaluate the risk to the physical and psychological health and safety of the public from incompetent, unethical or impaired practice of the profession;
- (b) ascertain what constitutes the practice of the profession, whether persons practising the profession should be authorized to provide restricted activities and the conditions, if any, that should apply to the practice of the profession or the provision of restricted activities;
- (c) evaluate and make recommendations on the services normally provided by a person practising the profession, including the complexity of the services and how they are carried out;

- (d) consider whether the services normally provided by persons practising the profession are regulated by an enactment;
- (e) consider whether the profession is a distinct and identifiable profession;
- (f) consider whether the proposed protected title is appropriately descriptive and whether it is likely to cause public confusion;
- (g) consider the potential costs and benefits of regulating the profession, including the expected effect on practitioner availability and on education and training programs, the expected effect on enhancement of quality of service and the expected effect on prices, access and service efficiency;
- (h) ascertain the qualifications and minimum standards of competence that are required for a person applying to practise the profession and how the continuing competence of practitioners is to be maintained, ascertain what education programs are available and evaluate the available education programs;
- (i) ascertain the ability of the proposed college of the profession to carry out its powers and duties under this Act or consider whether they could be carried out by an existing college;
- (j) evaluate the effect, if any, that there would be on any agreements on trade and mobility to which Canada or Alberta is a signatory if the profession would become a regulated profession;
- (k) on the request of the Minister, consider any other matter.

RSA 2000 cH-7 s25;2006 c19 s2(4)

#### **Recommendation to Minister**

**26(1)** On completing an investigation under section 25(3), the Advisory Board must recommend to the Minister, with reasons for the recommendation, whether it would be in the public interest that this Act be amended to include the profession as a regulated profession and may make any other recommendation that, in its opinion, is compatible with the public interest.

**(2)** If the Advisory Board recommends that the profession be a regulated profession under this Act, the Advisory Board must also make recommendations respecting

- (a) the college for the proposed regulated profession,

- (b) a proposed practice for the proposed regulated profession, and
- (c) a name, title and initials, if any, for the proposed regulated profession and its members,

and the Advisory Board may make any other recommendations that, in its opinion, are compatible with the public interest.

1999 cH-5.5 s26

#### **Fee negotiation approval**

**27** If the Minister is satisfied that a college is organized so that when it undertakes its powers, duties and functions under this Act it would not be influenced by an approval,

- (a) the Minister may approve the college to set professional fees, to provide guidelines on professional fees and to negotiate professional fees on behalf of some or all of its regulated members, and
- (b) the Minister may impose conditions on that approval.

1999 cH-5.5 s27

## **Part 2 Registration**

### **Applying for Registration**

#### **Application for registration**

**28(1)** An application for registration as a regulated member is complete for the purpose of consideration under section 29(3) if it is in the required form and given to the registrar by the applicant along with

- (a) evidence of meeting the requirements for competence in the practice of the profession as required by subsection (2),
- (b) the application fee provided for in the bylaws,
- (c) evidence of having the amount and type of professional liability insurance, if required by the regulations,
- (d) evidence of being a Canadian citizen or a person lawfully permitted to work in Canada, if required by the regulations,
- (e) evidence of having good character and reputation, if required by the regulations,

- (f) evidence of meeting standards of language proficiency, if required by the regulations, and
  - (g) information required by the registrar under section 33(4)(b).
- (2)** An applicant may provide evidence of competence in the practice of the profession
- (a) by fulfilling one or more of the following as required by the regulations:
    - (i) education requirements, that may include being enrolled in a program of studies,
    - (ii) experience requirements,
    - (iii) successful completion of examinations, or
    - (iv) holding certificates or diplomas,
  - (b) by being registered with a profession in another jurisdiction recognized by the regulations or the council as having substantially equivalent competence and practice requirements and meeting the requirements for persons to be registered with that profession in that jurisdiction, or
  - (c) by satisfying the registrar, the registration committee or competence committee, of having as determined in accordance with the regulations, a combination of education, experience, practice or other qualifications, that demonstrates the competence required for registration as a regulated member.
- (3)** If there are reasonable and probable grounds to be of the opinion that an applicant by engaging in the regulated profession as a regulated member would create a danger to the public or be unsafe because of a disability or incapacity, the registrar, the registration committee or competence committee may require an applicant for registration to undergo physical or mental examinations by a person agreed on by the applicant and the registrar, registration committee or competence committee or, failing an agreement, designated by the registrar, registration committee or competence committee for the purpose of assisting the registrar, registration committee or competence committee in determining whether the applicant by engaging in the regulated profession as a regulated member would create a danger to the public or be unsafe.

RSA 2000 cH-7 s28;2007 c32 s1(7)



**Receipt of application**

**29(1)** The registrar must, as soon as reasonably possible, on receipt of an application for registration as a regulated member, give notice to the applicant that the application has been received, whether it is complete and if it is not complete, why it is not complete.

**(2)** When an incomplete application is made complete by the applicant the registrar must, as soon as reasonably possible, give notice to the applicant that a complete application is received.

**(3)** On receipt of a complete application by the registrar, the registrar, registration committee or competence committee, as provided for in the bylaws, must consider the application, and make a decision under section 30 and notify the applicant of the decision as soon as reasonably possible.

**(4)** An application for registration as an other member under section 33(1)(b) must be considered by the college in accordance with the bylaws.

1999 cH-5.5 s29

**Decision on application**

**30(1)** On considering a complete application for registration as a regulated member, the registrar, the registration committee or the competence committee, as provided for in the bylaws, must

- (a) approve the application,
- (b) defer registration if in the opinion of the registrar, registration committee or competence committee it is in the best interest of the public to defer the registration of the applicant until the applicant complies with conditions imposed by the registrar, registration committee or competence committee, or
- (c) refuse the application for registration.

**(2)** The registrar, registration committee or competence committee may impose conditions on an approval under subsection (1)(a) that in the opinion of the registrar, registration committee or competence committee are in the best interest of the public.

**(3)** On making a decision under subsection (1), the registrar, registration committee or competence committee must

- (a) give notice of the decision to the applicant,
- (b) in the case of the registration committee or competence committee, give notice of the decision to the registrar, and

- (c) in the case of a decision to impose conditions on an approval, to defer a registration or to refuse an application, give reasons for the decision and notify the applicant as to how the applicant may request a review of the decision under section 31.
- (4) An applicant may, on request, review the documents used by and created by the registrar, registration committee or competence committee when considering the applicant's application.
- (5) If the applicant is not notified of the decision under this section by the date that is 120 days after notice was given under section 29 that the application for registration is complete, the applicant may request a review under section 31.

1999 cH-5.5 s30;2000 c15 s4(7)

#### **Review application**

- 31(1)** An applicant whose application for registration is accepted subject to conditions or whose registration is deferred or whose application is refused by the registrar, registration committee or competence committee may, within 30 days after being given a copy of the decision, request a review by the council in accordance with subsection (3).
- (2) An applicant who is not notified of a decision by the date described in section 30(5) may, within 30 days from that date, request a review by the council in accordance with subsection (3).
- (3) A request for a review must
- (a) be in writing,
  - (b) set out the reasons why the application for registration should be approved with or without conditions, and
  - (c) be given to the registrar, who must give a copy of the request to the council.
- (4) On being given a request for a review, the registrar must, within 30 days, notify the applicant of the date, time and place at which the council will conduct the review.
- (5) A review must be commenced not later than 60 days after the registrar is given the request for a review.
- (6) The college may, in accordance with the bylaws, charge a fee for a review.

1999 cH-5.5 s31

**Review of registration decision**

**32(1)** An applicant and the registrar, the registration committee or competence committee may appear with or without counsel and make representations to the council at a review.

**(2)** On reviewing a decision pursuant to a request for a review under section 31, the council may

- (a) confirm, reverse or vary the decision of the registrar, registration committee or competence committee and make any decision that the registrar, registration committee or competence committee could have made,
- (b) refer the matter back to the registrar, registration committee or competence committee and direct the registrar, registration committee or competence committee to make a further assessment of the application and make a decision under section 30 on the application, and
- (c) make any further order the council considers necessary for the purposes of carrying out its decision.

**(3)** The council must conduct the review as soon as reasonably possible and on making a decision must give the applicant and the registrar a copy of its decision with the reasons for the decision.

1999 cH-5.5 s32

**Registration****Registers of members**

**33(1)** A council

- (a) must establish, in accordance with the regulations, a regulated members register for one or more categories of members who provide professional services of the regulated profession, and
- (b) may, in accordance with the bylaws, establish other members registers for one or more categories of non-regulated members.

**(2)** The name of a regulated member who is suspended remains in the register.

**(3)** The registrar must enter the following information for each regulated member in the appropriate category of register established under subsection (1)(a):

- (a) the full name of the member;
- (b) the member's unique registration number;

- (b.1) whether the member's registration is restricted to a period of time and, if so, the period of time;
  - (c) any conditions imposed on the member's practice permit;
  - (d) the status of the member's practice permit, including whether it is suspended or cancelled;
  - (e) the member's practice specialization recognized by the college;
  - (f) whether the member is authorized to provide a restricted activity not normally provided by regulated members of the college;
  - (g) whether the member is not authorized to provide a restricted activity that is normally provided by regulated members of the college;
  - (h) information described in section 119(1).
- (4)** The registrar
- (a) may, in accordance with the regulations,
    - (i) enter in a register described in subsection (1)(a) information in addition to that required by subsection (3), and
    - (ii) remove information from a register,and
  - (b) must require regulated members and applicants for registration as regulated members to provide information related to their demographic status, education, training and experience and their practice of the regulated profession in accordance with regulations under sections 131 and 134.
- (5)** The registrar may, if authorized by the bylaws, enter in a register and remove from the register information about members registered under subsection (1)(b).

RSA 2000 cH-7 s33;2001 c21 s3;2003 c39 s2

**Register information**

**34(1)** If a member of the public, during regular business hours, requests information on the register respecting a named regulated member, the college must provide the information described in section 33(3) with respect to that member.

(2) A college may, in accordance with the regulations, disclose information about its members in addition to the information referred to in subsection (1).

RSA 2000 cH-7 s34;2006 c19 s2(5)

#### **Register error**

**35** The council, hearing tribunal, registration committee, complaint review committee or competence committee may direct the registrar to correct or remove, and the registrar may correct or remove, any entry made in error in a register.

RSA 2000 cH-7 s35;2008 c34 s5

#### **Registration of regulated members**

**36(1)** If an application for registration as a regulated member has been approved and all the applicable fees provided for in the bylaws have been paid, the registrar must assign that member a unique registration number and enter the information required by section 33(3) in the appropriate register.

(2) On entering the name of a person in the register of regulated members, the registrar must issue the person a practice permit.

(3) A practice permit must include

- (a) the name of the regulated member;
- (b) the regulated member's unique registration number;
- (c) the name of the college that is issuing the practice permit;
- (d) a statement that the practice permit is issued pursuant to the *Health Professions Act*;
- (e) any conditions imposed on the regulated member's practice permit;
- (f) the category of registration if the college has more than one category of regulated member;
- (g) the expiry date of the practice permit.

(4) If a college issues a registration document in addition to a practice permit, the college must clearly state on the registration document that it is not a practice permit.

(5) A regulated member must

- (a) display the regulated member's practice permit where the regulated member provides professional services, or

- (b) on request, make the regulated member's practice permit available for inspection.

RSA 2000 cH-7 s36;2007 c32 s1(8)

#### **Corporations not members**

**37** A corporation, professional corporation or physical therapy corporation may not be registered as a regulated member nor as an other member.

1999 cH-5.5 s37

### **Practice Permit Renewal**

#### **Application date for practice permit**

**38(1)** A regulated member must submit a complete application for a practice permit to the registrar periodically by the date provided for in the bylaws.

**(2)** On receipt of an application for a practice permit, the registrar, registration committee or competence committee, as provided for in the bylaws, must, as soon as possible, consider the application and make a decision under section 40(2) and notify the applicant of the decision.

**(3)** A regulated member's practice permit continues in force if an application for a practice permit has been received by the registrar but a decision on the application has not been made.

1999 cH-5.5 s38

#### **Suspension if application is not made**

**39** If a regulated member's application for renewal of a practice permit is not received by the registrar by the date provided for in the bylaws, the member's practice permit is suspended and the registrar may cancel the member's practice permit in accordance with section 43.

RSA 2000 cH-7 s39;2001 c21 s4

#### **Applying for practice permit**

**40(1)** An application for a practice permit is complete for consideration under subsection (2) if it is in the form required and given to the registrar by a regulated member

- (a) whose registration is not suspended or cancelled,
- (b) who
  - (i) meets the requirements for continuing competence of applicants for a practice permit provided for in the regulations, or

- (ii) is enrolled as a student in a program of studies provided for in the regulations or in a substantially equivalent program,
  - (c) who provides evidence of having the amount and type of professional liability insurance required by the regulations, if the insurance is required by the regulations,
  - (d) who provides the information required by the registrar under section 33(4)(b) and any other information that the regulations require to be provided, and
  - (e) who has paid the practice permit fee provided for in the bylaws and provided any information requested under section 122.
- (2)** The registrar, registration committee or competence committee, as provided for in the bylaws, must consider an application for a practice permit and decide whether
- (a) to approve the application if the regulated member meets the requirements set out in subsection (1) and issue the member a practice permit subject to any conditions imposed by the registrar, registration committee or competence committee,
  - (b) to issue a practice permit but to impose conditions for the completion of the continuing competence requirements set out in the regulations within the time specified in the conditions,
  - (c) to suspend the practice permit of the regulated member until the member has successfully completed the continuing competence requirements set out in the regulations or is enrolled in a program of studies provided for in the regulations or in a substantially equivalent program, or
  - (d) to refuse the application for a practice permit,

and must give the regulated member and, in the case of the registration committee or competence committee, give the registrar a copy of the decision, and the registrar may, or the registration committee or competence committee may direct the registrar to issue the practice permit or suspend the practice permit in accordance with the decision, and notify the regulated member of the decision and how to request a review under section 41.

**(3)** If the registrar, registration committee or competence committee suspends or refuses a practice permit or imposes conditions on a practice permit, the registrar, registration

committee or competence committee must include reasons in the decision under subsection (2).

RSA 2000 cH-7 s40;2001 c21 s5;2007 c32 s1(9);  
2008 c34 s6

#### **Review by council**

**41(1)** An applicant whose practice permit is issued subject to conditions, suspended or refused by the registrar, registration committee or competence committee may, within 30 days after being given a copy of the decision, request a review by giving the registrar a written request for a review that sets out the reasons why the application should be approved with or without conditions.

**(2)** On being given a request for a review, the registrar must, within 30 days, notify the applicant of the date, time and place at which the council will conduct the review.

**(3)** A review must be commenced not later than 60 days after the registrar is given the request for a review.

**(4)** A regulated member whose practice permit is suspended under this section may apply to the registrar for a stay of the suspension until the council makes a decision under subsection (6), and the person or committee designated by the council must consider and make a decision on the application.

**(5)** The applicant and the registrar, registration committee or competence committee may appear with or without counsel and make representations to the council at the review.

**(6)** On completing a review, the council may

- (a) confirm, reverse or vary the decision of the registrar, registration committee or competence committee and make any decision that the registrar, registration committee or competence committee could have made, or
- (b) refer the matter back to the registrar, registration committee or competence committee and direct the registrar, registration committee or competence committee to make a further assessment of the application for a practice permit and make a decision under section 40(2) on the application,

and may make any further order the council considers necessary for the purposes of carrying out its decision.

**(7)** The council must give the applicant and the registrar a written copy of its decision under subsection (6) with the reasons for the decision.



(8) The college may, in accordance with the bylaws, charge a fee for a review.

1999 cH-5.5 s41

### **Suspension, Cancellation and Reinstatement**

**42** Repealed 2001 c21 s6.

#### **Cancellation of practice permit**

**43(1)** If a regulated member does not apply for a practice permit under section 38(1), is in default of payment of the practice permit fee or fails to pay a penalty, costs or any other fees, levies or assessments due under this Act or the bylaws, the registrar, after 30 days or a greater number of days, as set out in the notice, after giving notice to the regulated member, may cancel the regulated member's practice permit and registration.

(2) The notice under subsection (1) must state that the registrar may cancel the practice permit and the registration of the regulated member unless a complete application for a practice permit is received, the practice permit fee is paid, and any other penalties, costs, fees, levies or assessments are paid, as indicated in the notice.

(3) If a practice permit and registration are cancelled under subsection (2) only because the practice permit fee or a penalty, cost, fee, levy or assessment is not paid, the registrar may, on its payment, issue or reissue the practice permit and reinstate the registration.

(4) If the registrar is satisfied that a regulated member does not comply with conditions imposed under section 40(2) within the time specified, the registrar may cancel the regulated member's practice permit and registration or may refer the matter to the registration committee or competence committee as provided for in the bylaws and the registration committee or competence committee, on being satisfied that the conditions are not complied with, may direct the registrar to cancel the member's practice permit and registration.

(5) The registrar may cancel the registration or practice permit of a regulated member and cancel the registration of another member on the member's request.

(6) The registrar may cancel the registration and practice permit of a regulated member on receipt of proof satisfactory to the registrar that the member is deceased.

RSA 2000 cH-7 s43;2001 c21 s7;2007 c32 s1(10)

**Return of suspended or cancelled permit**

**44** If the practice permit of a regulated member is suspended or cancelled under this Part, suspended or cancelled under an order under Part 4 or suspended under Part 6, that regulated member must, on request, send the practice permit to the registrar.

1999 cH-5.5 s44

**Reinstatement**

**45(1)** A regulated member whose practice permit and registration are cancelled under this Act, except under Part 4, may apply for the practice permit to be reissued and the registration to be reinstated in accordance with the bylaws.

**(2)** A person whose practice permit and registration are cancelled under Part 4 may apply for the practice permit to be reissued and the registration to be reinstated in accordance with the regulations.

RSA 2000 cH-7 s45;2001 c21 s8

**Registration Required****Mandatory registration**

**46(1)** A person must apply for registration if the person

- (a) meets the requirements of section 28(2) for registration as a regulated member, and
- (b) intends to provide one or more of the following:
  - (i) professional services directly to the public;
  - (ii) the manufacture of dental appliances or conducting of laboratory tests that are used by other regulated members to provide professional services directly to the public;
  - (iii) food and nutrition professional services that are used by other regulated members and individuals to provide services directly to the public;
  - (iv) the teaching of the practice of a regulated profession to regulated members or students of the regulated profession;
  - (v) the supervision of regulated members who provide professional services to the public.

**(2)** If a registrar is of the opinion that a person who is not a regulated member meets or may meet the requirements of subsection (1)(a) with respect to the college and provides any services described in subsection (1)(b), the registrar may give that person a written request to apply for registration.

(3) A person who receives a request under subsection (2) must give a complete application for registration, except for the application fee, to the registrar within 30 days after receiving the request, however, the application fee must be paid prior to registration.

(4) This section does not apply to a person who is

- (a) a regulated member of another college,
- (b) a student of a regulated profession,
- (c) authorized to provide services referred to in subsection (1) pursuant to another enactment, or
- (d) qualified to be registered as an emergency medical responder and
  - (i) who is not primarily employed to provide health services but while employed, or
  - (ii) who provides volunteer services other than services as an ambulance attendant and, while providing those services,

provides health services to another person.

RSA 2000 cH-7 s46;2006 c19 s2(22);2007 c32 s1(11)

#### **Prohibition**

**47(1)** No person shall knowingly employ a person who meets the requirements of section 46(1)(a) to provide services described in section 46(1)(b) unless that employed person is

- (a) a regulated member, or
- (b) authorized to provide the services pursuant to another enactment.

(2) A person who meets the requirements of section 46(1)(a) and who is to be employed to provide services described in section 46(1)(b) must,

- (a) before being so employed, provide the employer with evidence of
  - (i) a practice permit in good standing, or
  - (ii) an authorization to provide the services pursuant to another enactment,

and

- (b) while so employed, notify the employer
  - (i) if the conditions imposed on the practice permit are varied or cancelled, if additional conditions are imposed on the practice permit or if the practice permit is suspended or cancelled, or
  - (ii) if there are any changes to the authorization to provide the services pursuant to another enactment or if the authorization is suspended or cancelled or expires.

RSA 2000 cH-7 s47;2007 c32 s1(12)

### Offence

**48(1)** A person who meets the requirements of section 46(1) but does not comply with a request under section 46(2) is guilty of an offence.

**(1.1)** A person who knowingly employs a person in contravention of section 47(1) is guilty of an offence.

**(2)** A person who is guilty of an offence under subsection (1) is liable

- (a) for a first offence, to a fine of not more than \$2000,
- (b) for a 2nd offence, to a fine of not more than \$4000, and
- (c) for a 3rd and every subsequent offence, to a fine of not more than \$6000 or to imprisonment for a term of not more than 6 months or to both fine and imprisonment.

**(2.1)** A person who is guilty of an offence under subsection (1.1) is liable

- (a) for a first offence, to a fine of not more than \$4000,
- (b) for a 2nd offence, to a fine of not more than \$8000, and
- (c) for a 3rd and every subsequent offence, to a fine of not more than \$12 000 or to imprisonment for a term of not more than 12 months or to both a fine and imprisonment.

**(3)** A prosecution under this section may be commenced within 2 years after the commission of the alleged offence, but not afterwards.

RSA 2000 cH-7 s48;2007 c32 s1(13)

### Injunction

**49** The Court of Queen's Bench, on application by a college, may grant an injunction enjoining any person who on reasonable and

probable grounds appears to meet the requirements of section 46(1)(a) from providing services described in section 46(1)(b) if

- (a) the person is not a regulated member and is not authorized to provide the services pursuant to another enactment, or
- (b) the person fails to comply with section 46(3) on receiving a written request under section 46(2).

RSA 2000 cH-7 s49;2007 c32 s1(14);2009 c53 s79

### **Part 3**

## **Continuing Competence and Practice Visits**

### **Continuing Competence Program**

#### **Continuing competence program**

**50(1)** A council must establish, by regulation, a continuing competence program within 5 years from the date that the schedule to this Act with respect to the profession comes into force.

**(2)** A continuing competence program

- (a) must provide for regulated members or categories of regulated members to maintain competence and to enhance the provision of professional services, and
- (b) may, if authorized by the regulations, provide for practice visits of the regulated members or categories of regulated members.

RSA 2000 cH-7 s50;2001 c21 s9;2006 c19 s2(6);  
2008 c34 s7

### **Practice Visits**

#### **Practice visit**

**51(1)** In this section, “publicly funded facility” means an institution or facility where professional services are provided and that

- (a) is an approved hospital as defined in the *Hospitals Act*, a nursing home as defined in the *Nursing Homes Act*, a correctional institution as defined in the *Corrections Act*, a facility as defined in the *Mental Health Act*, a diagnostic or treatment centre made available under section 49(b) of the *Mental Health Act*, a facility as defined in the *Social Care Facilities Review Committee Act* or an institution or facility operated by or approved by the Minister of Health, or

- (b) is operated by or receives its current operating funds or part of them directly or indirectly from the Government of Alberta and is
  - (i) a place of care for persons who are aged or infirm or who require special care,
  - (ii) a hostel or other establishment operated to provide accommodation and maintenance for not fewer than 4 unemployed or indigent persons,
  - (iii) an emergency shelter,
  - (iv) a residential alcohol and drug abuse treatment centre,
  - (v) a group home or shelter for physically or mentally handicapped persons, or
  - (vi) a vocational rehabilitation and training centre for physically or mentally handicapped persons.

**(2)** If authorized by the regulations to carry out practice visits as part of a continuing competence program, the competence committee may direct that a regulated member participate in a practice visit, and the regulated member must co-operate with the competence committee and any person appointed under section 11.

**(3)** For the purposes of conducting a practice visit, any or all of the members of the competence committee and a person appointed under section 11 may, in order to ensure that continuing competence requirements are met,

- (a) subject to subsection (4), at any reasonable time and on having given notice, enter and inspect any place where the regulated member provides professional services;
- (b) interview a regulated member about the member's professional services;
- (c) observe the regulated member providing professional services if the person who is receiving the professional services consents;
- (d) interview or survey patients, clients and co-workers or the regulated member about the regulated member's professional services;
- (e) review documents, including patient records, and examine substances and things that
  - (i) are owned by or under the control of the regulated member, and

- (ii) are related to the provision of professional services by the regulated member;
  - (f) assess the safety and condition of equipment and technology used by the regulated member in the provision of professional services.
- (4)** No member of the competence committee and no person appointed under section 11 may enter
- (a) a private dwelling place or any part of a place that is designed to be used and is being used as a permanent or temporary private dwelling place except with the consent of the occupant of the dwelling place, or
  - (b) a publicly funded facility except with the consent and agreement to the carrying out of one or more of the powers and duties under subsection (3) of the person who controls or operates the publicly funded facility.
- (5)** Within 90 days after completing a practice visit the competence committee must
- (a) give a report to the regulated member setting out the findings of the visit;
  - (b) decide and advise the regulated member and the registrar whether
    - (i) the results from the practice visit were satisfactory,
    - (ii) the regulated member must comply with directions imposed in accordance with the regulations, or
    - (iii) in accordance with this Part, the information obtained from the practice visit has been referred to the complaints director.
- (6)** Repealed 2001 c21 s10.  
RSA 2000 cH-7 s51;2001 c21 s10;2002 c24 s12;  
2007 c32 s1(15);2008 cH-4.3 s19;2008 c34 s8;  
2013 c10 s17

#### **Referral to complaints director**

**51.1(1)** The competence committee, registration committee or registrar must make a referral to the complaints director if, on the basis of information obtained from a practice visit or continuing competence program, the competence committee, registration committee or registrar is of the opinion that a regulated member has intentionally provided false or misleading information under this Part.

- (2) The competence committee must make a referral to the complaints director if, on the basis of information obtained from a practice visit, it is of the opinion that
- (a) the regulated member displays a lack of competence in the provision of professional services that has not been remedied by participating in the continuing competence program,
  - (b) the regulated member may be incapacitated, or
  - (c) the conduct of the regulated member constitutes unprofessional conduct that cannot be readily remedied by means of the continuing competence program.

2001 c21 s11

**Confidentiality**

**52(1)** Information related to participation in a continuing competence program under this Part is confidential, and any person who has access to or comes into possession of such information shall not publish, release or disclose the information in any manner except as is necessary to carry out powers and duties under this Part.

(2) Despite subsection (1), information obtained under this Part may be

- (a) provided or published by the competence committee in summarized or statistical form if the information is provided or published in such a manner that it is not possible to relate the information to any particular identifiable person or facility,
- (b) used by the competence committee to give to the complaints director the name of a regulated member and the grounds for a referral under section 51.1, and
- (c) released or disclosed to the counsel of the regulated member in connection with proceedings under this Part, Part 2 or Part 4.

(3) If any person publishes, releases or discloses information in contravention of this section, that information may not be used in proceedings under any other Part of this Act, in any arbitration, inquiry, action or matter, or in any proceedings before a court.

RSA 2000 cH-7 s52;2001 c21 s12

**Offence**

**53** A person who knowingly publishes, releases or discloses information in contravention of section 52 is guilty of an offence and liable to a fine of not more than \$10 000.



## Part 3.1 Inspections

### Inspectors

**53.1** A council may appoint inspectors for the purpose of determining whether regulated members are complying with this Act and the bylaws, standards of practice and code of ethics of the regulated profession.

2008 c34 s9

### Inspection powers

**53.2(1)** Subject to the regulations, an inspector

- (a) may, at any reasonable time,
  - (i) require any person to answer any questions that are relevant to the inspection and direct the person to answer the questions under oath, and
  - (ii) require any person to give to the inspector any document, substance or thing relevant to the inspection that the person possesses or that is under the control of the person,
- (b) may require any person to give up possession of any document described in clause (a) to allow the inspector to take it away to copy it, in which case the inspector must return it within a reasonable time of being given it,
- (c) may require any person to give up possession of any substance and thing described in clause (a) to allow the inspector to take it away to examine it and perform tests on it, in which case the inspector must return it, if appropriate and possible, within a reasonable time of being given it, and
- (d) subject to subsection (6), may at any reasonable time enter and inspect any place
  - (i) where a regulated member provides professional services,
  - (ii) related to the provision of professional services, or
  - (iii) where documents associated with the provision of professional services are maintained.

**(2)** An inspector may copy and keep copies of anything given to the inspector under subsection (1).

- (3) A person may comply with a request to give documents under subsection (1)(a)(ii) or an order to produce documents under section 53.3(1)(a)(i) by giving copies of the documents to the inspector.
- (4) If a person gives copies under subsection (3), the person must, on the request of the inspector, allow the inspector to compare the copies with the original documents at the person's place of business during regular business hours.
- (5) An inspector who makes a comparison under subsection (4) may take away the original documents to perform tests on them and must return them within a reasonable time of taking them.
- (6) No inspector may enter
- (a) a private dwelling place or any part of a place that is designed to be used and is being used as a permanent or temporary private dwelling place except
    - (i) with the consent of the occupant of the dwelling place, or
    - (ii) pursuant to an order of the Court of Queen's Bench;
  - (b) a publicly funded facility as defined in section 51(1), except
    - (i) with the consent and agreement of the person who controls or operates the publicly funded facility to the carrying out of one or more of the powers and duties under subsection (1), or
    - (ii) pursuant to an order of the Court of Queen's Bench.

2008 c34 s9

**Application to Court**

**53.3(1)** The registrar, on the request of an inspector, may apply to the Court of Queen's Bench for

- (a) an order directing any person
  - (i) to produce to the inspector any documents, substances or things relevant to the inspection in the person's possession or under the person's control,
  - (ii) to give up possession of any document described in subclause (i) to allow the inspector to take it away to copy it, in which case the inspector must return it within a reasonable time after receiving it,

- (iii) to give up possession of any substance or thing described in subclause (i) to allow the inspector to take it away, examine it and perform tests on it, in which case the inspector must return it, if possible, within a reasonable time of being given it, or
- (iv) to allow an inspector to enter any place for the purpose of conducting an inspection,
- (b) an order directing any person to attend before the inspector to answer any relevant questions the inspector may have relating to the inspection, or
- (c) an order authorizing an inspector to conduct an inspection in a private dwelling place or in a publicly funded facility as defined in section 51(1).

(2) An application for an order under subsection (1) may be made without notice if the Court is satisfied that it is proper to make the order in the circumstances.

2008 c34 s9

#### **Report of inspection to registrar**

**53.4(1)** Within 90 days after completing an inspection the inspector who conducted the inspection must give a report setting out the findings of the inspection to the regulated member and the registrar.

(2) The registrar must make a referral to the complaints director if, on the basis of information contained in the inspection report, the registrar is of the opinion that

- (a) a regulated member has failed or refused to co-operate with an inspector conducting an inspection under this Part,
- (b) a regulated member has provided false or misleading information under this Part,
- (c) a regulated member has failed or refused to comply with a direction made by the registrar under subsection (3),
- (d) a regulated member may be incapacitated, or
- (e) a regulated member's conduct constitutes other unprofessional conduct.

(3) Despite subsection (2)(e), if the registrar is of the opinion that the conduct of the regulated member constitutes unprofessional conduct that was minor in nature, the registrar may direct the regulated member to take specified actions instead of making a referral under subsection (2)(e).

(4) Information respecting a regulated member that is obtained under this Part may be provided to the complaints director if the registrar makes a referral to the complaints director in respect of that regulated member under this section.

2008 c34 s9

#### **Inspection committee**

**53.5(1)** A council may establish an inspection committee to carry out the powers and duties of the registrar under this Part except those described in section 53.3.

(2) An inspection committee must consist of one or more members appointed by the council.

(3) If a council establishes an inspection committee under subsection (1), the powers and duties of the registrar under this Part, except those described in section 53.3, are vested in and may be exercised by the inspection committee, and any reference to the registrar in this Part, except in section 53.3, is deemed to be a reference to the inspection committee.

2008 c34 s9

## **Part 4 Professional Conduct**

### **Division 1 Complaint Process**

#### **Making a complaint**

**54(1)** A person who makes a complaint to a complaints director regarding a regulated member or a former member must do so in writing and must sign the written complaint.

(2) A complaint under subsection (1) is not affected by the person about whom the complaint is made ceasing to be a regulated member before the proceedings with respect to the complaint are completed.

(3) Despite subsection (1), a complaint cannot be made about a former member if 2 years have elapsed since the person became a former member.

(4) Despite subsection (1), a complaint about a former member who was a member under a former Act but has not been a regulated member under this Act may be made under this Part only if discipline proceedings under the former Act could be commenced if that Act were still in force.

(5) If information, a notice or non-compliance is treated as a complaint under section 56 and acted on under section 55, the information, notice or non-compliance is deemed to be a complaint.

RSA 2000 cH-7 s54;2006 c19 s2(7);2017 c22 s24

#### **Acting on a complaint**

**55(1)** Within 30 days after being given a complaint or treating information as a complaint, the complaints director must give notice to the complainant of the action taken with respect to it.

(2) The complaints director

(a) may encourage the complainant and the investigated person to communicate with each other and resolve the complaint,

(a.1) may, with the consent of the complainant and the investigated person, attempt to resolve the complaint,

(b) may make a referral to an alternative complaint resolution process under Division 2,

(c) may request an expert to assess and provide a written report on the subject-matter of the complaint,

(d) may conduct, or appoint an investigator to conduct, an investigation,

(e) if satisfied that the complaint is trivial or vexatious, may dismiss the complaint,

(f) if satisfied that there is insufficient or no evidence of unprofessional conduct, may dismiss the complaint, and

(g) may make a direction under section 118.

(3) If the complaints director dismisses the complaint, the complaints director must, within 30 days, give notice to the complainant of the dismissal and the right to apply for a review by the complaint review committee under section 68.

RSA 2000 cH-7 s55;2001 c21 s13

#### **Aware of unprofessional conduct**

**56** Despite not receiving a complaint under section 54, but subject to section 54(3) and (4), if the complaints director has reasonable grounds to believe that the conduct of a regulated member or former member constitutes unprofessional conduct, receives a referral under Part 3, Part 3.1, Schedule 7 or Schedule 21, is given notice under section 57, is given information orally or is aware of non-compliance with a direction under section 118, the complaints

director may treat the information, notice or non-compliance as a complaint and act on it under section 55.

RSA 2000 cH-7 s56;2001 c21 s14;  
2006 c19 s2(8);2008 c34 s10

#### **Termination by employer**

**57(1)** If, because of conduct that in the opinion of the employer is unprofessional conduct, the employment of a regulated member is terminated or suspended or the regulated member resigns, the employer must give notice of that conduct to the complaints director.

**(2)** On being given notice under subsection (1), the complaints director must

- (a) treat the employer as a complainant,
- (b) despite not receiving a complaint under section 54, treat the notice as a complaint in accordance with section 56, and
- (c) notify the employer and the regulated member accordingly.

**(3)** For the purposes of this section, “employment” includes being engaged to provide professional services on a full-time or part-time basis as a paid or unpaid employee, consultant, contractor or volunteer.

1999 cH-5.5 s57;2000 c15 s4(9)

#### **Offence**

**57.1** An employer who contravenes section 57 is guilty of an offence and liable

- (a) for a first offence, to a fine of not more than \$4000,
- (b) for a 2nd offence, to a fine of not more than \$8000, and
- (c) for a 3rd and every subsequent offence, to a fine of not more than \$12 000.

2007 c32 s1(16)

## **Division 2 Alternative Complaint Resolution**

#### **Process**

**58(1)** The complaints director may, with the agreement of the complainant and the investigated person, refer the complainant and the investigated person to an alternative complaint resolution process provided for in the regulations at any time before the commencement of a hearing by the hearing tribunal.

- (2) If the complaints director makes a referral under subsection (1), a member of the college must participate in or conduct the alternative complaint resolution process.
- (3) The person who conducts an alternative complaint resolution process must be impartial and must act impartially.
- (4) If a report has been prepared under section 55(2)(c) with respect to the complaint, the complaints director must submit a copy of the report to the person conducting the alternative complaint resolution process.
- (5) If a report has not been prepared by an expert, the person conducting the alternative complaint resolution process may request an expert to assess and submit a written report on the subject-matter of the complaint or matters arising during the alternative complaint resolution process.
- (6) A person who conducts an alternative complaint resolution process may assist in settling a complaint, but if in the opinion of that person a settlement is not likely to be agreed to, the person must notify the complaints director.
- (7) If during the alternative complaint resolution process information is introduced that causes the person conducting the alternative complaint resolution process to believe that the matter is substantially different from the original complaint, the person must notify the complaints director and the complaints director must decide whether the alternative complaint resolution process may continue or whether the matter must be processed under subsection (8).
- (8) On being notified under subsection (6) or section 60(7)(b) or on deciding under subsection (7) to process a matter under this subsection, the complaints director must
- (a) if an investigation has not been commenced, commence an investigation under Division 3,
  - (b) if an investigation has been commenced but no report of the investigation has been made, refer the complaint back to the investigator, if available, or appoint another investigator to complete the investigation regarding the complaint and make a report,
  - (c) dismiss the complaint, or
  - (d) in all other cases, refer the matter to the hearings director for a hearing.

RSA 2000 cH-7 s58;2007 c32 s1(17)

**Evidence**

**59(1)** Subject to subsection (2), a person who conducts an alternative complaint resolution process must

- (a) if there is a proposed settlement, give all the records relating to the process, including the proposed settlement, to the complaint review committee, and
- (b) if there is no proposed settlement, give all the records relating to the process to the complaints director.

**(1.1)** A complaint review committee, on receipt of records and a proposed settlement under subsection (1), may review them in accordance with section 60(1.1), and on making its decision under section 60(2) must give the complaints director all the records it received, including the proposed settlement and the ratified settlement, if it ratifies a settlement.

**(1.2)** Subject to subsection (2), a college has custody and control of all the records given to the complaint review committee or the complaints director under this section and must keep those records, except for the ratified settlement, separate from any other records held by the college.

**(1.3)** A college may disclose information from records and proposed settlement described in subsection (1.2) only if the disclosure is authorized or required by this Act.

**(2)** Any document prepared or generated for the purposes of an alternative complaint resolution process belongs to the person who prepared or generated the document.

**(3)** Except for information described in section 58(7) or that is part of a ratified settlement or a report prepared pursuant to a request under section 58(5), any communication and evidence arising from anything said, evidence of anything said or evidence of an admission or communication made in the course of an alternative complaint resolution process is confidential and not admissible in any proceedings under this or any other Act or in any action, matter or proceeding before a court

- (a) without the written consent of the investigated person and the complainant, and
- (b) in the case of written evidence, without the written consent of the person who prepared the written evidence, the investigated person and the complainant.

RSA 2000 cH-7 s59;2007 c32 s1(18)



**Settlement**

**60(1)** If the complainant and the investigated person agree, in writing, to a proposed settlement of a complaint in an alternative complaint resolution process, the person conducting the alternative complaint resolution process must report the settlement to the complaint review committee.

**(1.1)** As part of the review of a proposed settlement reported to the complaint review committee under subsection (1), the complaint review committee may

- (a) review the records and proposed settlement it received pursuant to section 59(1)(a), and
- (b) require any of the following to appear before it to answer questions regarding the proposed settlement:
  - (i) the complainant;
  - (ii) the investigated person;
  - (iii) the member of the college who participated in or conducted the alternative complaint resolution process.

**(2)** The complaint review committee may, on reviewing a proposed settlement of a complaint referred to it under subsection (1),

- (a) ratify the settlement,
- (b) with the consent of the complainant and the investigated person, amend the settlement and then ratify the settlement, or
- (c) refuse to ratify the settlement.

**(3)** The complaint review committee must notify the complaints director of its actions under subsection (2).

**(4)** On being aware that a ratified settlement is not complied with, the complaints director may

- (a) treat it as information and act on it under section 55, or
- (b) treat it as a complaint and refer it to the hearings director for a hearing.

**(5)** If the complaints director makes a referral under subsection (4)(b), the information is deemed to be a complaint and the complaints director must notify the complainant and the investigated person.

- (6) The college must retain a copy of the ratified settlement and must release information related to the complaint, investigated person and ratified settlement as required by this Act and
- (a) may publish, in accordance with the bylaws, information respecting a complaint and a ratified settlement, and
  - (b) may reveal the identity of the investigated person or the complainant, or both, if it is authorized to do so by the ratified settlement.
- (7) Subject to subsections (4) and (6), if a ratified settlement
- (a) relates to all the matters complained of or that arose during the alternative complaint resolution process, no further proceedings under this Part may be taken with respect to those matters, or
  - (b) relates to only part of the matters complained of or that arose during the alternative complaint resolution process, the person who conducted the alternative complaint resolution process must notify the complaints director of the matters that do not form part of the ratified settlement and the complaints director must act on it under section 58(8).

RSA 2000 cH-7 s60;2001 c21 s15;2007 c32 s1(19)

### **Division 3 Investigations**

#### **Notice of investigation**

- 61(1)** If an investigation is to be conducted under this Part, the complaints director
- (a) must give the complainant the name of the investigator, and
  - (b) must, unless it would significantly harm the investigation, give the investigated person the name of the investigator and reasonable particulars of the complaint to be investigated.
- (2)** If the investigated person is not given the information referred to in subsection (1)(b) when an investigation is to be conducted, the complaints director must give the information
- (a) when there would be no significant harm to the investigation, or
  - (b) before the investigation is completed,

whichever is earlier.

1999 cH-5.5 s61

#### **Investigation scope**

**62(1)** An investigator may investigate a complaint.

**(2)** In the course of an investigation under subsection (1), an investigator may investigate matters that are related to the conduct of the investigated person that could give rise to a finding of unprofessional conduct.

1999 cH-5.5 s62

#### **Investigation powers**

**63(1)** An investigator

- (a) may, at any reasonable time,
  - (i) require any person to answer any relevant questions and direct the person to answer the questions under oath, and
  - (ii) require any person to give to the investigator any document, substance or thing relevant to the investigation that the person possesses or that is under the control of the person,
- (b) may require any person to give up possession of any document described in clause (a) to allow the investigator to take it away to copy it, in which case the investigator must return it within a reasonable time of being given it but must return it no later than after a hearing is completed,
- (c) may require any person to give up possession of any substance and thing described in clause (a) to allow the investigator to take it away to examine it and perform tests on it, in which case the investigator must return it, if appropriate and possible, within a reasonable time of being given it but must return it, if appropriate and possible, no later than after a hearing is completed, and
- (d) subject to subsection (8), at any reasonable time enter and inspect any building where a regulated member provides professional services, but if the building contains a private dwelling place may not enter any part of the building designed to be used as and is being used as a permanent or temporary private dwelling place.

**(2)** The investigator may copy and keep copies of anything given under subsection (1).

**(3)** The complaints director, on the request of an investigator or without a request if the complaints director is the investigator, may apply to the Court of Queen's Bench for

- (a) an order directing any person
  - (i) to produce to the investigator any documents, substances or things relevant to the investigation in the person's possession or under the person's control,
  - (ii) to give up possession of any document described in subclause (i) to allow the investigator to take it away to copy it, in which case the investigator must return it within a reasonable time after receiving it but return it no later than after a hearing is completed, or
  - (iii) to give up possession of any substance or thing described in subclause (i) to allow the investigator to take it away, examine it and perform tests on it, in which case the investigator must return it, if possible, within a reasonable time of being given it but return it, if possible, no later than after a hearing is completed;
- (b) an order directing any person to attend before the investigator to answer any relevant questions the investigator may have relating to the investigation.

**(4)** An application for an order under subsection (3) may be made without notice if the Court is satisfied that it is proper to make the order in the circumstances.

**(5)** A person may comply with a request to give documents under subsection (1)(a)(ii) or an order under subsection (3)(a)(i) by giving copies of the documents to the investigator.

**(6)** If a person gives copies under subsection (5), the person must on the request of the investigator allow the investigator to compare the copies with the original documents at the person's place of business during regular business hours.

**(7)** An investigator who makes a comparison under subsection (6) may take away the original documents to perform tests on them and must return them within a reasonable time of taking them but must return them no later than after a hearing is completed.

**(8)** No investigator may enter a publicly funded facility, as defined in section 51, except with the consent of the person who controls or operates the publicly funded facility.

**Proceedings delayed**

**64** If during the investigation the complaints director refers the complainant and the investigated person to an alternative complaint resolution process in accordance with this Part, the investigation and hearing must not proceed unless the complaints director is notified as described in section 58(6) or makes a decision under section 58(7).

1999 cH-5.5 s64

**Conditions, suspension during proceedings**

**65(1)** On the recommendation of the complaints director or the hearing tribunal, a person or committee designated by the council may

(a) impose conditions on an investigated person's practice permit generally or with respect to any area of the practice of that regulated profession, including the condition that the investigated person

(i) practise under supervision, or

(ii) practise with one or more other regulated members,

or

(b) suspend the practice permit of an investigated person,

until the completion of proceedings under this Part.

**(2)** An investigated person may apply to the Court of Queen's Bench for an order staying a decision by a person or committee under subsection (1).

**(3)** A copy of an application under subsection (2) must be given to the registrar.

RSA 2000 cH-7 s65;2009 c53 s79

**Report of investigation**

**66(1)** When an investigator concludes an investigation, the investigator must make a report within a reasonable time and, if the investigator is not the complaints director, submit the report to the complaints director.

**(2)** If, on reviewing a report made under this section, the complaints director determines that the report is not complete or that the investigation was not properly conducted, the complaints director

(a) must direct the investigator, or appoint another investigator, to undertake further investigation and make a report and submit it to the complaints director, and

- (b) may request an expert to assess and prepare a written report on the subject-matter of the complaint or matters arising from the investigation of the complaint.
- (3)** If, on reviewing a report prepared under this section, the complaints director determines that the investigation is concluded, the complaints director must
- (a) refer the matter to the hearings director for a hearing, or
  - (b) dismiss the complaint, if in the opinion of the complaints director
    - (i) the complaint is trivial or vexatious, or
    - (ii) there is insufficient or no evidence of unprofessional conduct.
- (4)** Despite subsection (3)(a), if the hearing tribunal has not commenced a hearing and the complaints director learns of new evidence that causes the complaints director to be of the opinion that the complaint is trivial or vexatious or there is insufficient or no evidence of unprofessional conduct, the complaints director may withdraw the complaint from the hearings director and hearing tribunal and dismiss the complaint.

RSA 2000 cH-7 s66;2007 c32 s1(20)

#### **Notification of action taken**

**67** The complaints director must notify the complainant and the investigated person in writing of the action taken under section 66(3) and if the complaint is dismissed

- (a) must give the reasons, and
- (b) notify the complainant in writing of the right to apply to the hearings director for a review under section 68.

1999 cH-5.5 s67

#### **Review of dismissal of complaint**

**68(1)** A complainant may apply, in writing with reasons, to the hearings director for a review of the dismissal of a complaint within 30 days after being notified of the dismissal under section 55 or 67.

**(2)** Despite section 14(2), on receipt of an application under subsection (1) the hearings director must notify the investigated person, give a copy of the application to the complaint review committee and direct the complaints director to give a copy of the report made under section 66 to a complaint review committee.

- (3) Within 60 days after receipt of a report under subsection (2), a complaint review committee must commence a review of the report and the decision to dismiss the complaint.
- (4) A complaint review committee may determine whether the submissions to it with respect to a review under subsection (3) by the complainant and the investigated person must be written, oral or both.
- (5) The complaint review committee, on complying with subsection (3), must
- (a) refer the matter to the hearings director for a hearing,
  - (b) direct the complaints director to conduct or appoint an investigator to conduct a further investigation and to prepare a report on the further investigation and submit it to the complaint review committee for its consideration before acting under clause (a) or (c), or
  - (c) confirm that the complaint is dismissed if in the opinion of the complaint review committee
    - (i) the complaint is trivial or vexatious, or
    - (ii) there is insufficient or no evidence of unprofessional conduct.
- (6) The complaint review committee must give the complainant and the investigated person written notification, with reasons, of any action taken under subsection (5).

1999 cH-5.5 s68

**Hearing to be scheduled**

**69** The hearings director must, within 90 days after receiving a referral for a hearing, set a date for a hearing with respect to the complaint unless

- (a) the complaints director dismisses the complaint under section 66(4),
- (b) the president grants, on reasonable grounds, an extension on application by the hearings director, or
- (c) the complaints director and the investigated person agree to an extension.

RSA 2000 cH-7 s69;2007 c32 s1(21)

**Admission of unprofessional conduct**

**70(1)** At any time after a complaint has been made but before the hearing tribunal has made a decision as to whether unprofessional

conduct has occurred, an investigated person may submit a written admission of unprofessional conduct to the hearings director.

(2) An admission under subsection (1) may not be acted on unless it is acceptable in whole or in part to the hearing tribunal.

(3) If an admission under subsection (1) is accepted in whole or in part by the hearing tribunal, any investigation of the complaint and any alternative complaint resolution process with respect to the complaint are suspended, and the hearing tribunal may hold a hearing to decide

(a) whether the admitted conduct is unprofessional conduct, and

(b) whether any orders are to be made under section 82(1).

(4) Despite subsection (3), if an admission under subsection (1) does not relate to all the matters complained of or investigated, the remaining matters may be submitted to the complaints director to be treated as information received under section 56.

1999 cH-5.5 s70

## **Division 4 Hearings and Decisions**

### **Bias prevention**

**71** Any person who has investigated, reviewed or made a decision on a complaint or matters related to a complaint may not subsequently sit as a member of a council, tribunal or committee while it is holding a hearing or a review with respect to that complaint.

1999 cH-5.5 s71

### **Investigated person at hearing**

**72(1)** The investigated person must appear, may be compelled to testify and may be represented by counsel at a hearing before the hearing tribunal.

(2) The investigated person or counsel for the investigated person may examine any witness appearing before the hearing tribunal.

1999 cH-5.5 s72

## **Witnesses**

### **Investigated person's witnesses**

**73** The investigated person may call any person, including the complainant, as a witness and give to any person, including the complainant, a notice to attend or a notice to attend and a notice to produce at the hearing any document, substance or thing related to the subject-matter of the hearing.



RSA 2000 cH-7 s73;2007 c32 s1(22)

**College witnesses**

**74** The complaints director may request that any person, including the complainant and the investigated person, who in the opinion of the complaints director has knowledge of the subject-matter of the hearing be called as a witness and be given, under section 77, a notice to attend or a notice to attend and a notice to produce any document, substance or thing related to the subject-matter of the hearing.

1999 cH-5.5 s74

**Notice**

**75** A notice under sections 73 and 74 must be signed by the hearings director and the college must retain a copy of the notice.

1999 cH-5.5 s75

**Rights and obligations of witnesses**

**76(1)** A witness including the investigated person may be examined under oath, may give evidence on all matters relevant to the hearing before the hearing tribunal and is not excused from answering a question because the answer may

- (a) tend to incriminate the witness,
- (b) subject the witness to orders under this Part, or
- (c) tend to establish the witness's liability in a civil proceeding or a prosecution under this or any other enactment.

**(2)** If an answer given under subsection (1) by a witness could

- (a) establish the witness's liability in a court proceeding or proceedings under any enactment, or
- (b) incriminate the witness,

that answer may not be used or received against the witness in a civil proceeding, a prosecution under this Act or proceedings under any other Act, but that answer may be used or received against the witness in proceedings in respect of perjury or giving contradictory evidence under this Act.

**(3)** A witness must be advised that the hearing is open to the public unless the hearing tribunal directs that the hearing be closed.

**(4)** If a person has been given a notice to attend or a notice to attend and a notice to produce in accordance with section 73 or 77 and fails

- (a) to attend the hearing,
- (b) to produce the items set out in the notice to produce, or
- (c) to be sworn or to answer any question that the hearing tribunal directs the person to answer,

the college or the investigated person may apply to the Court of Queen's Bench for an order directing the person to comply with the notice and to be sworn and answer questions.

(5) An application for an order under subsection (4) may be made without notice to the other party if the Court is satisfied that it is proper to make the order in the circumstances.

(6) If a witness is outside Alberta, a judge of the Court of Queen's Bench may, on an application made by the college or the investigated person without notifying the witness, direct the obtaining of the evidence of the witness in the manner provided under the *Alberta Rules of Court* for the taking of the evidence of a person outside Alberta.

RSA 2000 cH-7 s76;2009 c53 s79

## Hearings

### College duties in respect of hearing

**77** The hearings director must

- (a) at least 30 days before the hearing, give the investigated person a notice to attend and give reasonable particulars of the subject-matter of the hearing,
- (b) prior to the hearing, advise the complainant of the date, time and location of the hearing,
- (c) as requested under section 74 give any person a notice to attend, and
- (d) as requested under section 74 give any person who is to produce documents or any substance or thing a notice to attend and a notice to produce.

1999 cH-5.5 s77

### Access to hearing

**78(1)** A hearing is open to the public unless

- (a) the hearing tribunal holds the hearing or part of the hearing in private on its own motion or on an application of any person that the hearing or part of the hearing should be in private

- (i) because of probable prejudice to a civil action or a prosecution of an offence,
- (ii) to protect the safety of the person or of the public,
- (iii) because not disclosing a person's confidential personal, health, property or financial information outweighs the desirability of having the hearing open to the public,
- (iv) because the presence of the public or complainant could compromise the ability of a witness to testify, or
- (v) because of other reasons satisfactory to the hearing tribunal,

or

- (b) another Act requires that the hearing or part of the hearing be held in private.

**(2)** If a hearing or part of a hearing is held in private, the hearing tribunal must state the reason why and must include the reason in the record.

**(3)** Even if a hearing is held in private,

- (a) the investigated person and the investigated person's counsel may attend,
- (b) the complainant may attend unless the hearing tribunal directs otherwise, and
- (c) the complaints director and hearing tribunal's, complaints director's and college's counsel may attend.

**(4)** Even if a hearing is open to the public, a witness, except for the investigated person, may be excluded from the hearing until the witness has given evidence and has been released or dismissed from the hearing.

1999 cH-5.5 s78

#### **Tribunal at hearing**

**79(1)** If the hearing tribunal is advised by counsel acting on behalf of the tribunal at a hearing, that counsel may not lead or present evidence at the hearing on behalf of the college nor be the counsel of the complaints director.

**(2)** The hearing tribunal may request an expert to assess and prepare a written report on any matter that in the opinion of the hearing tribunal is relevant to the subject-matter of the hearing.

(3) The hearing tribunal may hear evidence on any other matter that arises in the course of a hearing, but the hearing tribunal must give the investigated person notice of its intention to hear the evidence and on the request of the investigated person must grant an adjournment before hearing the evidence.

(4) If the hearing tribunal is of the opinion that a separate hearing is required with respect to a matter described in subsection (3), the hearing tribunal may

- (a) refer the matter as a complaint to the complaints director under section 54, or
- (b) refer the matter to the hearings director under section 69 for a hearing.

(5) Evidence may be given before the hearing tribunal in any manner that it considers appropriate, and it is not bound by the rules of law respecting evidence applicable to judicial hearings.

(6) Despite section 72(1), if the investigated person does not appear at a hearing and there is proof that the investigated person has been given a notice to attend the hearing tribunal may

- (a) proceed with the hearing in the absence of the investigated person, and
- (b) act or decide on the matter being heard in the absence of the investigated person.

1999 cH-5.5 s79

## Decisions and Records

### Tribunal decision

**80(1)** The hearing tribunal may decide that the conduct of an investigated person does or does not constitute unprofessional conduct.

(2) If the hearing tribunal is of the opinion that there are reasonable and probable grounds to believe that the investigated person has committed a criminal offence, the hearing tribunal must direct the hearings director to send a copy of the written decision under section 83 to the Minister of Justice and Solicitor General and on the request of the Minister of Justice and Solicitor General also send a copy of the record of the hearing.

RSA 2000 cH-7 s80;2013 c10 s17

### Previous decisions

**81** If the hearing tribunal decides that the conduct of an investigated person constitutes unprofessional conduct, the hearing tribunal may request the college to provide it with a copy of any

previous decision of unprofessional conduct with respect to the investigated person and a copy of the record of the previous hearing.

1999 cH-5.5 s81

#### **Orders of tribunal**

**82(1)** If the hearing tribunal decides that the conduct of an investigated person constitutes unprofessional conduct, the hearing tribunal may make one or more of the following orders:

- (a) caution the investigated person;
- (b) reprimand the investigated person;
- (c) impose conditions on the investigated person's practice permit generally or in any area of the practice of the regulated profession, including conditions that the investigated person
  - (i) practise under supervision,
  - (ii) practise with one or more other regulated members,
  - (iii) not practise in an area of the practice of the regulated profession until the investigated person has successfully completed a specific course of studies or obtained supervised practical experience of a type described in the order,
  - (iv) not practise in an area of the regulated profession, or
  - (v) report on specific matters to the hearing tribunal, council, committee or individual specified in the order;
- (d) direct the investigated person to satisfy the hearing tribunal, committee or individual specified in the order that the investigated person is not incapacitated and suspend the investigated person's practice permit until the hearing tribunal, committee or individual is so satisfied;
- (e) require the investigated person to undertake counselling or a treatment program that in its opinion is appropriate;
- (f) direct that within the time set by the order the investigated person must pass a specific course of study, obtain supervised practical experience of a type described in the order or satisfy the hearing tribunal, committee or individual specified in the order as to the investigated person's competence generally or in an area of the practice of the regulated profession;

- (g) suspend the practice permit of the investigated person for a stated period or until
  - (i) the investigated person has successfully completed a specific course of studies or obtained supervised practical experience of a type described in the order, or
  - (ii) the hearing tribunal or a committee or individual specified in the order is satisfied as to the competence of the investigated person generally or in a specified area of the practice of the regulated profession;
- (h) cancel the registration and practice permit of the investigated person;
  - (i) if, in the opinion of the hearing tribunal, the investigated person's fees for professional services were improper or inappropriate or the professional services that the investigated person provided were improperly rendered or required the complainant to undergo remedial treatment, the hearing tribunal may direct the investigated person to waive, reduce or repay the fee for professional services provided by the investigated person;
- (j) direct, subject to any regulations under section 134(a), that the investigated person pay within the time set in the order all or part of the expenses of, costs of and fees related to the investigation or hearing or both, including but not restricted to
  - (i) the expenses of an expert who assessed and provided a written report on the subject-matter of the complaint,
  - (ii) legal expenses and legal fees for legal services provided to the college, complaints director and hearing tribunal,
  - (iii) travelling expenses and a daily allowance, as determined by the council, for the complaints director, the investigator and the members of the hearing tribunal who are not public members,
  - (iv) witness fees, expert witness fees and expenses of witnesses and expert witnesses,
  - (v) the costs of creating a record of the proceedings and transcripts and of serving notices and documents, and

- (vi) any other expenses of the college directly attributable to the investigation or hearing or both;
  - (k) direct that the investigated person pay to the college within the time set in the order a fine not exceeding the amount set out in the column of the unprofessional conduct fines table that is specified for the college in a schedule to this Act for each finding of unprofessional conduct or the aggregate amount set out in that column for all of the findings arising out of the hearing;
  - (l) any order that the hearing tribunal considers appropriate for the protection of the public.
- (2) The hearing tribunal may, in an order under subsection (1), stay the order or a portion of the order on conditions set out in the order.
- (3) If the complaints director is satisfied that a person has not complied with an order under this section or section 89(5)(b), the complaints director may
- (a) treat the matter as information under section 56,
  - (b) refer the matter to the hearings director to schedule a hearing before the hearing tribunal, or
  - (c) in the case of non-payment of a fine described in subsection (1)(k) or expenses described in subsection (1)(j) or section 89(6), suspend the practice permit of the investigated person until the fine or expenses are paid in full or the complaints director is satisfied that they are being paid in accordance with an agreement entered into with the investigated person.
- (4) A fine or expenses ordered to be paid under this section and section 89 are a debt due to the college and may be recovered by the college by an action in debt.

RSA 2000 cH-7 s82;2001 c21 s16;2006 c19 s2(9)

**Written decision**

**83** The hearing tribunal must, within a reasonable time after the conclusion of a hearing before it, make a written decision on the matter in which it

- (a) describes each finding made by it,
- (b) states the reasons for each finding made by it, and
- (c) states any order made under this Part.

1999 cH-5.5 s83

**Service of decision and record of hearing**

**84(1)** The hearing tribunal must forward to the hearings director

- (a) the written decision under section 83, and
- (b) the record of the hearing, consisting of all evidence presented before it, including
  - (i) the reports, exhibits and documents presented before it, and
  - (ii) a record of the evidence, including all testimony given before it, however recorded.

**(2)** The hearings director must, on receiving the decision and the record described in subsection (1), give a copy of the decision to

- (a) the complaints director and the registrar,
- (b) the complainant,
- (c) the investigated person, and
- (d) the Minister of Justice and Solicitor General, if so directed or requested under section 80(2),

and notify the investigated person of the right to appeal the decision to the council.

RSA 2000 cH-7 s84;2013 c10 s17

**Examination of record**

**85(1)** The investigated person may examine the record of the hearing and, on paying the reasonable costs of transcribing, copying and delivering the record, receive a copy of it.

**(2)** The complainant may examine the record of the hearing, except for the part of the record that relates to a part of the hearing that the complainant was directed by the hearing tribunal, under section 78(3)(b), not to attend and on paying the reasonable costs of transcribing, copying and delivering that record may receive a copy of it.

**(3)** A member of the public may examine the decision and the testimony given before the hearing tribunal, however recorded, except the part of the testimony that was given while the hearing was held in private.

**(4)** A member of the public, on paying the reasonable costs of transcribing, copying and delivering it, may receive a copy of the decision and the testimony, however recorded, except the part of the testimony that was given while the hearing was held in private.

RSA 2000 cH-7 s85;2007 c32 s1(23)



## Division 5 Appeals

### Stay pending appeal

**86(1)** A decision of the hearing tribunal remains in effect pending an appeal to the council unless the person or committee designated by the council, on written application, stays the decision pending the appeal.

**(2)** The investigated person may make a written submission with respect to an application under subsection (1).

**(3)** If the person or committee designated by the council

- (a) decides not to stay the decision of the hearing tribunal, or
- (b) does not make a decision within 10 days, excluding holidays, of the application,

the applicant may apply to the Court of Queen's Bench for a stay of the decision of the hearing tribunal pending an appeal to the council.

**(4)** A decision of the council remains in effect pending an appeal to the Court of Appeal unless the Court of Appeal, on application, stays the decision pending the appeal.

1999 cH-5.5 s86;2000 c15 s4(12)

### Appeal within College

#### Appeal to council

**87(1)** An investigated person or the complaints director, on behalf of the college, may commence an appeal to the council of the decision of the hearing tribunal by a written notice of appeal that

- (a) identifies the appealed decision, and
- (b) states the reasons for the appeal.

**(2)** A notice of appeal must be given to the hearings director within 30 days after the date on which the decision of the hearing tribunal is given to the investigated person.

**(3)** A hearings director must, on being given a notice of appeal,

- (a) give a copy of the notice of appeal, and make a copy of the decision and record of the hearing available, to each member of the council or of the panel of council hearing the appeal,

- (b) ensure that the complaints director, the investigated person and the complainant are given a notice of the hearing of an appeal that states the date, time and place at which the council will hear the appeal, and
- (c) ensure that the investigated person and the complaints director are given a copy of the record of the hearing.

1999 cH-5.5 s87

**Setting the date for an appeal****88(1)** A council must,

- (a) if conditions have been imposed on the practice permit of the investigated person under section 82(1)(c)(i), (ii), (iii) or (iv) or if the registration or practice permit of the investigated person has been suspended or cancelled under section 82(1)(g) or (h), within 45 days after the date a notice of appeal has been given to the hearings director, set the date for the appeal, and
- (b) in all other cases, within 90 days after the date a notice of appeal has been given to the hearings director, set the date for the appeal.

**(2)** A council may, on the written request of the investigated person or the complaints director, extend the periods referred to in subsection (1) for one or more additional periods, but

- (a) in a case to which subsection (1)(a) applies, no extension may be granted without the consent of the investigated person, and
- (b) in a case to which subsection (1)(b) applies, no extension may be granted without the consent of the investigated person and the complaints director.

RSA 2000 cH-7 s88;2007 c32 s1(24)

**Council's powers on appeal****89(1)** The complaints director and the investigated person may appear and be represented by counsel at the appeal before the council.**(2)** Subject to subsection (4)(b), an appeal to the council must be based on the record of the hearing and the decision of the hearing tribunal.**(3)** Subject to subsection (4)(b), sections 71, 72, 77(a) and (b), 78, 79(1), (5), (6) and 80 to 85 apply to proceedings before the council.**(4)** The council on an appeal may

- (a) grant adjournments of the proceedings or reserve the determination of the matters before it for a future meeting of the council but no adjournment may be granted without the consent of the investigated person if that person's practice permit is suspended or cancelled,
  - (b) on hearing an application for leave to introduce new evidence, direct the hearing tribunal that held the hearing to hear that evidence and to reconsider its decision and quash, confirm or vary the decision, and
  - (c) draw inferences of fact and make a determination or finding that, in its opinion, should have been made by the hearing tribunal.
- (5)** The council must, within 90 days from the date of the conclusion of the appeal hearing before it, make a decision and, by order, do one or more of the following:
- (a) make any finding that, in its opinion, should have been made by the hearing tribunal,
  - (b) quash, confirm or vary any finding or order of the hearing tribunal or substitute or make a finding or order of its own,
  - (c) refer the matter back to the hearing tribunal to receive additional evidence for further consideration in accordance with any direction that the council may make, or
  - (d) refer the matter to the hearings director to schedule it for rehearing before another hearing tribunal composed of persons who were not members of the hearing tribunal that heard the matter, to rehear the matter.
- (6)** Subject to any regulations under section 134(a), the council may direct the investigated person to pay, within the time set by the council, in addition to expenses, costs and fees referred to in section 82(1)(j), all or part of the expenses of, costs of and fees related to the appeal, including
- (a) legal expenses and legal fees for legal services provided to the college, complaints director and council,
  - (b) travelling expenses and a daily allowance, as determined by the council, for the complaints director and the members of the council who are not public members,
  - (c) the costs of creating a record of the proceedings and transcripts and of serving notices and documents, and

- (d) any other expenses of the college directly attributable to the appeal.

(7) A fine or expenses ordered or directed to be paid under this section are a debt due to the college and may be recovered by the college by an action in debt.

RSA 2000 cH-7 s89;2001 c21 s17;2006 c19 s2(22)

### **Appeal to the Court**

#### **Court of Appeal**

**90(1)** An investigated person may appeal to the Court of Appeal any finding, order or direction of the council under section 89.

(2) An appeal under this section may be commenced

- (a) by filing a notice of appeal with the Court at Edmonton or Calgary, and
- (b) by giving a copy of the notice of appeal to the complaints director and the complainant

within 30 days from the date on which the decision of the council is given to the investigated person.

RSA 2000 cH-7 s90;2009 c53 s79

#### **Appeal on record**

**91(1)** The appeal to the Court of Appeal must be based on the record of the hearing before the council and the council's decision, including the reasons for the decision, all of which must be certified by the hearings director.

(2) The hearings director, at the expense of the appellant, must arrange for the preparation of the record of the hearing before the council.

(3) If part of the hearing was held in private, the hearings director must ensure that the part of the record that relates to it is sealed.

(4) The part of a record that is sealed under subsection (3) may be reviewed by the Court of Appeal, and the Court of Appeal may direct that it remain sealed or that it be unsealed in whole or in part.

1999 cH-5.5 s91

#### **Power of Court on appeal**

**92(1)** The Court of Appeal on hearing an appeal may

- (a) make any finding that, in its opinion, should have been made;
- (b) quash, confirm or vary the finding or order of the council or any part of it;

- (c) refer the matter back to the council for further consideration in accordance with any direction of the Court;
- (d) if the appeal is wholly or partly successful, direct that all or part of the cost of preparation of the record referred to in section 91 be repaid by the college to the appellant or be applied to reduce the amount of penalties or costs otherwise payable to the college by the appellant.

(2) The Court of Appeal may make any award as to the costs of an appeal to it that it considers appropriate.

1999 cH-5.5 s92

#### **Application to vary order**

**93** If the time for filing an appeal under this Part has passed or due to a change in circumstances an order under this Part is impossible to carry out, the person to whom the order is directed or the complaints director may apply to the council for a variation of the order.

1999 cH-5.5 s93

### **Division 6 General**

#### **Non-prejudicial orders**

**94** A hearings director may make any order with respect to clerical and administrative matters that the hearings director considers necessary to prevent prejudice to the investigated person.

1999 cH-5.5 s94

#### **Commissioner for oaths**

**95** A complaints director, a person appointed by the complaints director to conduct an investigation and any member of a hearing tribunal, council or complaint review committee is conferred with the powers of a commissioner for oaths under the *Notaries and Commissioners Act* for the purposes of an investigation, hearing, review or appeal under this Part.

RSA 2000 cH-7 s95;2013 cN-5.5 s32

#### **Contravention of orders**

**96** No employer or other person shall knowingly require a regulated member to provide a health service that would result in the regulated member contravening an order of a hearing tribunal under section 82 or of a council under section 89(5).

1999 cH-5.5 s96

#### **Offence**

**96.1** An employer or other person who contravenes section 96 is guilty of an offence and liable

- (a) for a first offence, to a fine of not more than \$4000,
- (b) for a 2nd offence, to a fine of not more than \$8000, and
- (c) for a 3rd and every subsequent offence, to a fine of not more than \$12 000 or to imprisonment for a term of not more than 12 months or to both a fine and imprisonment.

2007 c32 s1(25)

## **Part 5 Business Arrangements**

### **Conducting a Practice**

#### **Practice in association**

**97(1)** In this section, “practice in association” means a practice conducted in co-operation with another person where one or more of the following occur:

- (a) joint advertising;
- (b) shared office telephone number;
- (c) combined client billing for services provided by more than one person;
- (d) 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) sharing or circumstances that the regulations under this section constitute as practice in association.

**(2)** Unless restricted by the regulations under this section, by a code of ethics or by the standards of practice, a regulated member may

- (a) practise in association with another regulated member or with a person who is not a regulated member, and
- (b) refer patients to and receive referrals from another regulated member of any college or a person who is not a regulated member.

**(3)** The Lieutenant Governor in Council may make regulations

- (a) restricting the persons or categories of persons with whom a regulated member or category of regulated members may practise in association;
- (b) restricting the persons or categories of persons to or from whom a regulated member or categories of regulated members may refer or receive referrals of patients;
- (c) describing additional forms of sharing or circumstances that constitute practice in association.

RSA 2000 cH-7 s97;2006 c19 s2(22)

#### **Partnership restrictions**

**98(1)** Despite section 97, a regulated member

- (a) of the College of Physicians and Surgeons of Alberta,
- (b) of the Alberta Dental Association and College,
- (c) of the Alberta College of Optometrists, or
- (d) of the Alberta College and Association of Chiropractors,

shall not

- (e) provide professional services as a member of a partnership unless each member of the partnership is a regulated member of the same college, or
- (f) divide, share, split or allocate, either directly or indirectly, any fee for professional services with any person who is not a regulated member of the same college.

**(2)** Subject to the code of ethics and standards of practice, subsection (1)(f) does not apply

- (a) to a payment by a regulated member to an employee made in the regular course of employment,
- (b) to a payment to a regulated member not restricted from practising in association pursuant to section 97, or
- (c) to a payment of rent under a bona fide lease of premises that is calculated on a bona fide basis of gross fees.

**(3)** If the practice permit of a member of a partnership is suspended, that member may remain as a member of the partnership, but the member may not provide any professional service as a member of the partnership while the practice permit is suspended.

(4) If a partnership ceases to comply with subsection (1)(e) or (f) by reason only of

- (a) the death of a member of the partnership,
- (b) the cancellation of the registration of a member of the partnership, or
- (c) the cancellation of the practice permit of a member of the partnership

the partnership has a period of 90 days from the date of the death or cancellation in which to fulfil the condition.

RSA 2000 cH-7 s98;2005 c13 s4(19),(20),(21);  
2007 c32 s1(26)

**99** Repealed 2016 c9 s3.

#### **Practice arrangements**

**100(1)** A regulated member is responsible, for the purposes of this Act, the code of ethics, the standards of practice and the bylaws, for how the member provides professional services and complies with this Act, the code of ethics, the standards of practice and the bylaws, and that responsibility is not affected, modified or diminished by the practice arrangements of the regulated member and, without restricting the generality of practice arrangements, practice arrangements include providing professional services as, in relationship to or on behalf of

- (a) a self-employed individual,
- (b) an employee,
- (c) a partner,
- (d) a partnership,
- (e) a shareholder,
- (f) a director,
- (g) a corporation other than a professional corporation,
- (h) a professional corporation,
- (i) an employer, or
- (j) a practice in association.

(2) Subject to this Part, a regulated member may provide professional services as, in relationship to or on behalf of



- (a) a self-employed individual,
- (b) an employee,
- (c) a partner,
- (d) a partnership,
- (e) a shareholder,
- (f) a director,
- (g) a corporation other than a professional corporation,
- (h) a professional corporation,
- (i) an employer, or
- (j) a practice in association.

(3) Nothing in this Part affects, modifies or limits any law or practice applicable to the confidential or ethical relationship between a regulated member and a person receiving the professional services of a regulated member.

(4) The relationship between a partnership, corporation or professional corporation providing professional services and a person receiving the professional services of the partnership, corporation, professional corporation or physical therapy corporation is subject to all applicable law and practice relating to the confidential and ethical relationships between a regulated member and the person receiving the professional services of a regulated member.

(5) The relationship between a regulated member practising in association and a person receiving the professional services of the regulated member practising in association is subject to all applicable law and practice relating to the confidential and ethical relationships between a regulated member and the person receiving the professional services.

(6) The rights and obligations pertaining to communications made to or information received by a regulated member apply to the shareholders, directors, officers and employees of a partnership, corporation or professional corporation and the participants in a practice in association.

RSA 2000 cH-7 s100;2016 c9 s4

#### **Municipal, settlement licence exemption**

**101** No municipality or Metis settlement has the power to require

- (a) a regulated member to obtain a licence from the municipality or Metis settlement to practise a regulated profession, or
- (b) a professional corporation, a business corporation or a partnership owned by regulated members to obtain a licence from the municipality or Metis settlement to practise a regulated profession.

RSA 2000 cH-7 s101;2016 c9 s5

**Advertising**

**102** A regulated member shall not engage in advertising that is untruthful, inaccurate or otherwise capable of misleading or misinforming the public.

1999 cH-5.5 s102

**Limited Liability Partnerships****Limited liability partnerships**

**102.1(1)** In this section, “council” means the council of

- (a) the Alberta Dental Association and College;
- (b) the Alberta College and Association of Chiropractors;
- (c) the Alberta College of Optometrists;
- (d) the College of Physicians and Surgeons of Alberta.

**(2)** Subject to subsection (3), a council

- (a) shall make regulations respecting the type and amount of liability insurance or other protection against professional liability that a partnership must have for the purposes of registration as a limited liability partnership under Part 3 of the *Partnership Act*, and
- (b) may make regulations governing eligibility requirements that a partnership must meet in order to be registered as a limited liability partnership under Part 3 of the *Partnership Act*.

**(3)** A regulated member of the College of Physicians and Surgeons of Alberta who is not a physician, surgeon or osteopath is not eligible to be a partner in a limited liability partnership under Part 3 of the *Partnership Act*.

**(4)** A regulation under subsection (2)(a) does not come into force unless it is approved by the Lieutenant Governor in Council.

**(5)** If the Minister considers that regulations made under subsection (2)(a) do not provide sufficient protection against

professional liability, the Minister may, by notice in writing to the council, request the council to amend the regulations in the manner specified in the notice within the time set out in the notice.

**(6)** If the council fails to amend the regulations in accordance with the notice under subsection (5), the Lieutenant Governor in Council may amend the regulations, and in that case the amendments operate as if they had been made by the council.

**(7)** Subsections (2) and (4) to (6) do not apply if there is a bylaw under subsection (8) in effect.

**(8)** A council may make a by-law providing that, notwithstanding Part 3 of the *Partnership Act*, no regulated member may provide professional services of the regulated profession in a limited liability partnership under that Act.

2001 c21 s18; 2005 c13 s4(19),(20),(21);  
2007 c32 s1(40)

## Professional Corporations

### Definitions

**103** In sections 104 to 115,

- (a) “articles” means articles as defined in the *Business Corporations Act*;
- (b) “registrar” means the registrar of
  - (i) the College of Physicians and Surgeons of Alberta;
  - (ii) the Alberta Dental Association and College;
  - (iii) the Alberta College and Association of Chiropractors;
  - (iv) the Alberta College of Optometrists;
- (c) “Registrar of Corporations” means the Registrar under the *Business Corporations Act*.

RSA 2000 cH-7 s103; 2005 c13 s4(19),(20),(21);  
2007 c32 s1(40)

### Professional corporation

**104** A regulated member

- (a) of the College of Physicians and Surgeons of Alberta who is a physician, surgeon or osteopath,
- (b) of the Alberta Dental Association and College,

- (c) of the Alberta College and Association of Chiropractors,  
or
- (d) of the Alberta College of Optometrists

may provide professional services on behalf of a corporation only if it is a professional corporation that holds an annual permit under this Act, and that professional corporation may only provide the professional services of a regulated member

- (e) of the College of Physicians and Surgeons of Alberta who is a physician, surgeon or osteopath,
- (f) of the Alberta Dental Association and College,
- (g) of the Alberta College and Association of Chiropractors,  
or
- (h) of the Alberta College of Optometrists.

RSA 2000 cH-7 s104; 2005 c13 s4(19),(20),(21);  
2007 c32 s1(40)

#### **Name**

**105(1)** The name of a professional corporation must meet the requirements of the bylaws.

**(2)** A professional corporation may provide professional services only under a name that meets the requirements of the bylaws.

1999 cH-5.5 s105

#### **Use of name**

**106(1)** No person shall provide the professional services of a regulated member

- (a) of the College of Physicians and Surgeons of Alberta who is a physician, surgeon or osteopath,
- (b) of the Alberta Dental Association and College,
- (c) of the Alberta College and Association of Chiropractors,  
or
- (d) of the Alberta College of Optometrists,

within Alberta under any name containing the words “corporation”, “incorporated”, “company”, “limited” or “Professional Corporation” or the abbreviation “Inc.”, “Ltd.” or “P.C.” unless that person is incorporated or continued as a corporation under the *Business Corporations Act* and the corporation holds an annual permit under this Act, or unless otherwise expressly authorized by statute.

(2) A person who contravenes subsection (1) is guilty of an offence and liable to a fine not exceeding \$2000.

RSA 2000 cH-7 s106; 2005 c13 s4(19),(20),(21);  
2007 c32 s1(40)

#### Liability of shareholders

**107** Despite anything to the contrary in the *Business Corporations Act* and despite the providing of the professional services of a regulated member

- (a) of the College of Physicians and Surgeons of Alberta who is a physician, surgeon or osteopath,
- (b) of the Alberta Dental Association and College,
- (c) of the Alberta College and Association of Chiropractors,  
or
- (d) of the Alberta College of Optometrists,

on behalf of a professional corporation, every voting shareholder of a professional corporation is liable to the same extent and in the same way as if the shareholder were, during that time, carrying on the business of the professional corporation as a partnership or, if there is only one voting shareholder, as an individual providing professional services.

RSA 2000 cH-7 s107; 2005 c13 s4(19),(20),(21);  
2007 c32 s1(40);2009 c51 s1

#### Approval for professional corporation

**108** The registrar may issue an approval of the articles of a proposed professional corporation for the purposes of section 7(2) of the *Business Corporations Act* to a regulated member

- (a) of the College of Physicians and Surgeons of Alberta who is a physician, surgeon or osteopath,
- (b) of the Alberta Dental Association and College,
- (c) of the Alberta College and Association of Chiropractors,  
or
- (d) of the Alberta College of Optometrists,

who files an application in the form provided for in the bylaws, submits a copy of the proposed articles and pays all the approval application fees provided for in the bylaws.

RSA 2000 cH-7 s108; 2005 c13 s4(19),(20),(21);  
2007 c32 s1(40)

**Professional corporation registered**

**109(1)** A regulated member who obtains an approval under section 108 and incorporates the proposed professional corporation under the *Business Corporations Act* may register the professional corporation under this Act if the regulated member

- (a) satisfies the registrar that the individuals who will provide professional services or who will supervise the provision of professional services on behalf of the professional corporation are regulated members of the college,
- (b) satisfies the registrar that the professional corporation is a corporation in good standing with the Registrar of Corporations,
- (c) satisfies the registrar that the professional corporation is not restricted from providing professional services regulated by the college or from carrying out its powers, duties and functions under this Act,
- (d) satisfies the registrar that the name of the corporation meets the requirements of the bylaws,
- (e) satisfies the registrar that the legal and beneficial ownership of all the issued voting shares of the professional corporation is vested in one or more regulated members of the college and that all of the directors of the corporation are regulated members of the college,
  - (e.1) satisfies the registrar that the legal and beneficial ownership of all the issued non-voting shares of the professional corporation is vested in one or more of the following persons:
    - (i) one or more regulated members of the college who are also voting shareholders;
    - (ii) in respect of any regulated member of the college who is also a voting shareholder, one or more of the following persons:
      - (A) the spouse of the regulated member;
      - (B) the common-law partner of the regulated member;
      - (C) a child of the regulated member;
      - (D) a trust, all of the beneficiaries of which are minor children of the regulated member;

- (f) satisfies the registrar that no voting shareholder of the professional corporation has entered into a voting trust agreement, proxy or any other type of agreement vesting in another person who is not a regulated member of the same college the authority to exercise the voting rights attached to any or all of the shareholder's shares, and
- (g) submits the permit application fees provided for in the bylaws.

**(2)** If a registrar is satisfied that subsection (1) has been complied with, the registrar must register the professional corporation, issue an annual permit to the professional corporation, assign a unique registration number to the professional corporation and enter the name of the professional corporation in the record of professional corporations.

**(3)** For the purposes of subsection (1)(e.1)(ii) and section 114(2),

- (a) "child", with respect to a regulated member, includes
  - (i) a person of whom the regulated member is the legal parent,
  - (ii) a person who is wholly dependent on the regulated member for support and of whom the regulated member has, or immediately before the person attained the age of 19 years had, in law or in fact, the custody and control, and
  - (iii) a child of the regulated member's spouse or common-law partner;
- (b) "common-law partner", with respect to a regulated member at any time, means a person who cohabits in a conjugal relationship with the regulated member at that time and
  - (i) has so cohabited with the regulated member for a continuous period of at least one year, or
  - (ii) would be the parent of a child of whom the regulated member is a parent if this clause were read without reference to clause (a)(iii),

and, for the purposes of this clause, where at any time the regulated member and the person cohabit in a conjugal relationship, they are, at any particular time after that time, deemed to be cohabiting in a conjugal relationship unless they were not cohabiting at the particular time for a

period of at least 90 days that includes the particular time because of a breakdown of their conjugal relationship.

RSA 2000 cH-7 s109;2009 c51 s1

#### **Annual permit**

**110(1)** An annual permit expires on the date provided for in the bylaws.

**(2)** If a professional corporation to which a unique registration number has been assigned under section 109(2) submits

- (a) an application for an annual permit in the form provided for in the bylaws,
- (b) evidence satisfactory to the registrar that the corporation complies with section 109(1)(a) to (f),
- (c) the information required by the bylaws, and
- (d) the annual permit application fee provided for in the bylaws,

the registrar must issue an annual permit to the professional corporation.

1999 cH-5.5 s110

#### **Voting of shares restrictions**

**111** No voting shareholder of a professional corporation shall enter into a voting trust agreement, proxy or any other type of agreement vesting in another person who is not a regulated member of the same college the authority to exercise the voting rights attached to any or all of the shareholder's shares.

RSA 2000 cH-7 s111;2009 c51 s1

#### **Change in organization**

**112** A professional corporation must inform the registrar within 15 days in the form provided for in the bylaws of any change in the ownership or directors of the professional corporation or to the name of the professional corporation.

1999 cH-5.5 s112

#### **Record of professional corporations**

**113(1)** A registrar must keep and maintain a record of professional corporations containing the following information with respect to each professional corporation:

- (a) its name and registered head office address;
- (b) the unique registration number issued to the professional corporation;



- (c) the date the annual permit was issued;
- (d) other information required by the bylaws.

(2) The public may, during regular office hours, inquire about the information on the record of professional corporations, and the college must on request provide the information described in subsection (1).

1999 cH-5.5 s113

#### **Cancellation of P.C. permit**

**114(1)** An annual permit may be cancelled by a registrar if sections 104 to 112 are not complied with.

(2) Despite subsection (1), if a professional corporation ceases to comply with a condition specified in section 109(1)(a) and (d) to (f)

- (a) only because of
    - (i) the death of a regulated member, or
    - (ii) the suspension or cancellation of the registration or practice permit of a regulated member,  
  
who is a voting shareholder of the professional corporation,
  - (b) only because
    - (i) of the death of a non-voting shareholder of the professional corporation or the death of a minor child who is a beneficiary of a trust referred to in section 109(1)(e.1)(ii)(D), or
    - (ii) a former spouse or former common-law partner of a regulated member who is a voting shareholder continues to own non-voting shares after their divorce or the breakdown of their common-law relationship,
- or
- (c) only because a child who is a beneficiary of a trust referred to in section 109(1)(e.1)(ii)(D) attains the age of 18 years,

the professional corporation has 90 days from the date of death, suspension, cancellation, divorce, breakdown of the common-law relationship or a beneficiary of a trust attaining the age of 18 years, as the case may be, in which to fulfil the condition, failing which the annual permit is cancelled on the expiration of the 90-day period.

(3) If the practice permit of a regulated member who is a shareholder of a professional corporation is suspended, that member may remain as a shareholder of the professional corporation, but the member may not provide any professional service on behalf of the professional corporation while the practice permit is suspended.

(4) In the event of the death of a regulated member or the occurrence of an event or circumstance described in subsection (2)(b), the council may in writing order that the 90-day period provided for in subsection (1) be extended for a further period that it considers reasonable.

(5) When an annual permit is not applied for, expires or is cancelled, the registrar must record in the record of professional corporations that an annual permit was not applied for or that the annual permit expired or was cancelled.

(6) A registrar shall not remove any information from the record of professional corporations except in accordance with the bylaws.

RSA 2000 cH-7 s114;2009 c51 s1

#### **Notification of cancelled, expired P.C. permits**

**115(1)** When an annual permit is cancelled, a registrar must notify the Registrar of Corporations and the shareholders of the professional corporation recorded with the registrar.

(2) Thirty days after the date that an annual permit expires, the registrar must notify the Registrar of Corporations that the annual permit has expired.

(3) In addition to the information provided under subsection (1), the registrar may provide information, in accordance with the bylaws, on expired and cancelled annual permits.

1999 cH-5.5 s115

#### **Restrictions on Regulations and Bylaws**

##### **Regulations, bylaws inoperative**

**116** A regulation and a bylaw made by a council, other than a bylaw under section 132(1)(i) to (m) and (p), are inoperative if they purport to regulate a matter that is regulated under sections 97 to 100 or 103 to 115.

1999 cH-5.5 s116

## **Part 6 Other Matters**

##### **Being suspended**

**117** A regulated member whose practice permit is suspended shall not provide professional services unless

- (a) the college notifies the regulated member that the suspension is lifted, or
- (b) the suspension has expired.

1999 cH-5.5 s117

**Assessing incapacity**

**118(1)** If a complaints director has grounds to believe that a regulated member is incapacitated, whether or not a complaint has been made under section 54, the complaints director may direct the regulated member to submit to specified physical or mental examinations, or both, by a person or at a facility specified by the complaints director and, despite section 100(4) to (6), request the person or facility to report to the complaints director and the regulated member within a time specified by the complaints director.

**(2)** On receipt of the results of any mental or physical examination under subsection (1), and if recommended by the person or facility the complaints director may direct the regulated member to submit to treatment by a person or at a facility specified by the complaints director.

**(3)** Despite section 100(4) to (6), the complaints director may request that the results of the treatment under subsection (2) be provided by the person or facility to the complaints director and the regulated member within the time specified by the complaints director.

**(4)** The complaints director may direct that the regulated member cease providing professional services until a report is received under subsection (1) or if a direction is made under subsection (2), cease providing professional services until the complaints director is satisfied that the regulated member is no longer incapacitated and the complaints director must notify the registrar of the direction to cease providing professional services.

**(5)** If the regulated member does not comply with a direction of the complaints director under subsection (1), (2) or (4),

- (a) the complaints director must continue with the investigation process if a complaint was previously made with respect to a matter that arose because of the alleged incapacity, and
- (b) the complaints director may treat the non-compliance as a complaint in accordance with section 56 and act on it under section 55 if no complaint has been previously made with respect to a matter that arose because of the alleged incapacity.

- (6) The regulated member may appeal a direction of the complaints director under subsection (1), (2) or (4) to the council.
- (7) An appeal under subsection (6) must be in writing, must set out the grounds for the appeal and must be served on the registrar within 7 days after receipt of the direction by the regulated member.
- (8) An appeal under subsection (6) must be conducted
- (a) as soon as reasonably practicable, and
  - (b) in accordance with section 89.
- (9) If a complaint has been made against a regulated member, and the complaints director
- (a) is satisfied that the matter complained of arose because of the incapacity of the regulated member,
  - (b) has made one or more directions under subsections (1) and (2), and
  - (c) is satisfied that the regulated member is complying with the directions made under subsection (2),
- the complaints director may, at any time before the matter has been referred to the hearings director, suspend any proceedings with respect to the complaint for a period of time that the complaints director considers appropriate.
- (10) Despite Part 4, if a matter has been suspended under subsection (9) and the complaints director is satisfied that the regulated member is no longer incapacitated, the complaints director may decide to suspend the proceedings indefinitely, with or without conditions.
- (11) Despite a suspension of proceedings under subsection (9) or (10), the complaints director may, despite Part 4, at any time direct that the proceedings with respect to the complaint be resumed.
- (12) If the complaints director suspends proceedings under subsection (9) or (10), the complaints director must within 14 days notify the complainant in writing of the suspension and the reasons for it.

1999 cH-5.5 s118

### Notices and Information

#### Access to regulated members' information

**119(1)** If under Part 2 or Part 4 a regulated member's practice permit is suspended or cancelled, or if conditions are imposed on a

regulated member's practice permit or a direction is made under section 118(4), the registrar

- (a) must enter the conditions imposed, if any, on the regulated member's practice permit,
- (b) must provide the information
  - (i) to a person who employs the regulated member to provide professional services on a full-time or part-time basis as a paid or unpaid employee, consultant, contractor or volunteer, and
  - (ii) to a hospital if the regulated member is a member of the hospital's medical staff or professional staff, as defined in the *Hospitals Act*,
- (c) must provide the information to any Minister who, or an organization specified in the regulations that, administers the payment of fees for the professional services that the regulated member provides,
- (d) must provide the information to another college if the registrar knows that the regulated member is also a member of that college,
- (e) must provide the information to the governing bodies of any similar profession in other provinces or territories, and
- (f) subject to the bylaws, may publish or distribute the information referred to in this subsection and information respecting any order made by a hearing tribunal or council under Part 4.

**(2)** In addition to the release of information under subsection (1), if a reprimand or other order under Part 4 relates to an improper billing practice by a regulated member, the registrar must provide the relevant information to any Minister who, or an organization specified in the regulations that, administers the payment of fees for the professional services that were subject to improper billing practices.

**(3)** If a regulated member applies for a review of a decision under Part 2, appeals a decision under Part 4 or appeals a direction under section 118(4), and a cancellation or suspension is lifted or imposed conditions are varied or removed, a reprimand is removed or a direction is cancelled, the registrar must provide that information in the same manner that the information on the cancellation, suspension, conditions or reprimand was provided under subsection (1) or (2).

(4) If a member of the public, during regular business hours, requests from a college information referred to in this section or section 33(3) or 85(3), or information as to whether a hearing is scheduled to be held or has been held under Part 4 with respect to a named regulated member, the college must provide the information with respect to that regulated member subject to the payment of costs referred to in section 85(3) and the period of time provided for in the regulations.

(5) If the governing body of a similar profession in another jurisdiction requests information as to whether a regulated member or a former member is an investigated person, the college may provide the information.

RSA 2000 cH-7 s119;2001 c21 s19;2007 c32 s1(27)

### Notices

**120(1)** A notice to attend and a notice to produce must include the date, time and place at which attendance or production is required.

(2) The person who gives a notice to attend or a notice to produce may at any time amend the notice to correct errors or omissions of a minor or clerical nature.

(3) If a document or notice is required to be given under Part 4 by a complaints director, complaint review committee, hearings director, hearing tribunal or college to any person other than a complaints director, complaint review committee, hearings director, hearing tribunal or college, the document or notice is sufficiently given if it is given by personal service to the person or sent to the person by certified or registered mail at that person's address as shown on the register or record of the registrar.

(4) A notice to attend and a notice to produce under section 73 is sufficiently given if the investigated person gives it by personal service to, or sends it to, the person to be called as a witness by certified or registered mail.

RSA 2000 cH-7 s120;2003 c39 s3

### Record retention

**121** A college must keep, for at least 10 years,

- (a) a copy of ratified settlements and admissions of unprofessional conduct,
- (b) records of investigations and hearings, and
- (c) records of complete registration applications and reviews.

1999 cH-5.5 s121;2000 c15 s4(14)

**Additional information**

**122(1)** For the purposes of planning and resource allocation, health system management, public health surveillance and health policy development, a registrar must

- (a) on the request of the Minister compile information referred to in section 33, in the form and manner requested by the Minister, and
- (b) on the request of the Minister disclose any or all of that information to the Minister and to other persons authorized by regulation under section 134 to receive such information.

**(1.1)** The Minister may impose conditions on the use, retention and disclosure of information disclosed to persons pursuant to subsection (1).

**(1.2)** A person who receives information pursuant to subsection (1) may use, retain and disclose it but must comply with any conditions imposed by the Minister on its use, retention and disclosure.

**(2)** A regulated member must provide the registrar with information referred to in section 33(4)(b).

RSA 2000 cH-7 s122;2003 c39 s4;2008 c34 s11

**Evidence****Evidence of registration**

**123(1)** A certificate purporting to be signed by the registrar that states that according to the records of the college under this Act or a former Act a named person or corporation was or was not, on a specified day or during a specified period, a regulated member, other member or former member, including the category of membership, or a professional corporation is admissible in evidence as proof, in the absence of evidence to the contrary, of those facts without proof of the registrar's appointment or signature.

**(2)** When proof of registration under this Act or a former Act is required,

- (a) a printed copy of the register or record of professional corporations, or
- (b) an extract from the register or record of professional corporations,

certified by the registrar is admissible in evidence instead of the original register.

(3) A certificate purporting to be signed by a person in that person's capacity as registrar and bearing the seal of the college is admissible in evidence as proof, in the absence of evidence to the contrary, of the facts stated in the certificate without proof of the signature of the registrar or the registrar's appointment.

(4) When

- (a) proof that a person is a regulated member under this Act whose practice permit is not suspended or cancelled is required to validate a witness's evidence, and
- (b) a copy of the register or extract from the register certified by the registrar is not available and the production of the original register is not feasible without prejudicial delay to the case or the parties interested,

the evidence of the person under oath claiming to be a regulated member whose practice permit is not under suspension or cancelled is admissible in evidence as proof, in the absence of evidence to the contrary, of those facts.

RSA 2000 cH-7 s123;2016 c9 s6

#### **Burden of proof**

**124** In a prosecution under this Act, the burden of proving that

- (a) a person is a regulated member or former member, or
- (b) a corporation is a professional corporation and holds an annual permit,
- (c) repealed 2016 c9 s7,

is on the accused.

RSA 2000 cH-7 s124;2016 c9 s7

#### **Records, evidence not admissible**

**125(1)** Despite any other Act or law except the *Ombudsman Act*,

- (a) a college,
- (b) a person who is or was an officer, employee or agent of a college,
- (c) a person who conducts or has conducted an investigation or an alternative complaint resolution process under Part 4 or who is carrying out or has carried out powers and duties under Part 3, or
- (d) a person who is or was a member of a council or a committee or hearing tribunal of a college



shall not be required in any proceedings to give evidence relating to any matter that arose in any proceedings under this Act or the bylaws, or to produce any record or thing adduced in evidence in proceedings under this Act or the bylaws or forming part of the records of the college that relate to proceedings under Part 4 or section 118 or that relate to any matter under Part 3, except in a prosecution with respect to perjury or the giving of contradictory evidence or in proceedings under this Act

(2) Subsection (1) does not apply to information described in section 119.

(3) Despite any other Act or law except the *Ombudsman Act*, a regulated member who is participating or has participated in a continuing competence program shall not be required in any proceedings to give evidence relating to any matter under Part 3 or to produce any record or thing that relates to any matter under Part 3 except in

- (a) proceedings under this Act, or
- (b) a prosecution with respect to perjury or the giving of contradictory evidence.

RSA 2000 cH-7 s125;2001 c21 s20

## Liability

### Liability exemption

**126(1)** No action lies against any of the following in respect of anything done or omitted to be done in good faith pursuant to this Act, an order of the Minister, the bylaws or any direction of the council:

- (a) a college or a person who is or was an officer, employee or agent of a college;
- (b) a person who conducts or has conducted an investigation or an alternative complaint resolution process under Part 4 or a practice visit;
- (c) the council or a person who is or was a member of a council, committee or hearing tribunal of a college;
- (d) a person who acts on the instructions of or under the supervision of a person referred to in clauses (a) to (c);
- (e) a person appointed as an administrator pursuant to an order of the Minister under section 135.2(1);
- (d.1) a person who, at the request of the council of a college of a regulated profession, performs an assessment of the

competence of an individual who has applied for registration to provide professional services of the regulated profession.

(2) No action for defamation may be founded on a communication regarding the conduct of a regulated member if the communication is made or is published in accordance with this Act by a college, a person described in subsection (1) or a council, committee or hearing tribunal in good faith and in the course of any proceedings under this Act or the bylaws relating to that conduct.

RSA 2000 cH-7 s126;2007 c32 s1(28);2007 c33 s1

### Ombudsman

#### Complaints to Ombudsman

**127(1)** Any person may make a complaint with respect to anything under this Act in accordance with the *Ombudsman Act*.

(2) A college, the council or a panel, committee, tribunal, registrar, president, complaints director and hearings director of a college and any officer, investigator or person engaged by a college may, on the recommendation of the Ombudsman,

- (a) rehear any matter and reconsider any decision or recommendation made by that person or body, and
- (b) quash, confirm or vary the decision or recommendation or any part of it.

(3) If a matter is reheard or reconsidered pursuant to subsection (2), the provisions of this Act governing the original hearing or consideration apply to the rehearing or reconsideration.

1999 cH-5.5 s127

## Part 7 Title Protection

#### Protected words, abbreviations

**128(1)** No person or group of persons shall represent or imply that the person is a regulated member or that the group of persons consists of regulated members unless the person is a regulated member or the group of persons consists of regulated members.

(2) No person or group of persons shall use the name of a college, alone or in combination with other words, in a manner that states or implies that the person or group of persons is a college under this Act unless the person or group of persons is a college under this Act.

(3) No regulated member shall use the word “registered” in a manner that states or implies that the member is a regulated

member of a regulated profession except in accordance with the regulations.

**(4)** No person or group of persons shall use the word “regulated” in connection with the name of a regulated profession or professional service or the words “regulated health professional” in a manner that states or implies that the person or group of persons is a college or a regulated member or group of regulated members unless the person or group of persons is a college under this Act or another enactment or is a regulated member or consists of a group of regulated members.

**(5)** No person other than

- (a) a regulated member shall use a title, abbreviation or initials set out in section 2 of a schedule to this Act alone or in combination with other words in a manner that states or implies that the person is a regulated member of the college to which section 2 of the schedule refers, or
- (b) a student who is enrolled in a program that in the opinion of the registrar is a program to train persons to provide professional services shall use a title, abbreviation or initials set out in section 2 of a schedule to this Act in combination with the word “student” while undertaking activities related to the program.

**(5.1)** Despite subsections (1), (3), (5) and (10), a student described in subsection (5)(b) shall not use the title “regulated” or “registered” or the initial “R” in combination with the word “student” while undertaking activities related to a program described in subsection (5)(b).

**(6)** No corporation shall use the word college, alone or in combination with other words, in a manner that states or implies that the corporation is a college under this Act unless the corporation is a college under this Act or authorized to use the word college under another enactment.

**(7)** No person shall use the title “doctor”, “surgeon”, “pathologist” or “oncologist” or the abbreviation “Dr.” alone or in combination with other words in connection with providing a health service unless the person is authorized to use the title or abbreviation by this Act or another enactment.

**(8)** Subsection (7) does not apply to a person who uses the title “doctor”, “surgeon”, “pathologist” or “oncologist” or the abbreviation “Dr.” alone or in combination with other words in connection with teaching, research or administration.

(9) No person shall use the word “nurse” alone or in combination with other words that in a manner states or implies that the person is a regulated member unless the person is authorized to use the word pursuant to Schedule 10, 24 or 25 or another enactment.

(10) No person or group of persons shall use the word “registered” or “regulated” or the phrase “regulated health professional” alone or in combination with other words that in a manner states or implies that the person is a regulated member unless the person or group of persons

- (a) is a regulated member or consists of a group of regulated members, or
- (b) is a person or group of persons authorized to use the word “registered” or “regulated” or the phrase “regulated health professional” in connection with the health service by another enactment.

(11) No regulated member shall use the term “specialist” or hold himself or herself out to be a specialist in connection with providing a health service unless the regulated member is authorized to use the term “specialist” by a Schedule to this Act or by a regulation made under section 131 or by a bylaw made under section 132 or as otherwise authorized by a council.

RSA 2000 cH-7 s128;2001 c21 s21;2005 c13 s4(2);  
2006 c19 s2(10)

#### **Use of alternative punctuation in an abbreviation or initials**

**128.1** In respect of an abbreviation or initials set out in section 2 of a schedule to this Act, a college may authorize regulated members entitled to use the abbreviation or initials to use punctuation that differs from that set out in the schedule.

2016 c9 s8

#### **Penalty**

**129** A person who contravenes section 128 is guilty of an offence and liable

- (a) for a first offence, to a fine of not more than \$2000,
- (b) for a 2nd offence, to a fine of not more than \$4000, and
- (c) for a 3rd and every subsequent offence, to a fine of not more than \$6000 or to imprisonment for a term of not more than 6 months or to both fine and imprisonment.

1999 cH-5.5 s129

**Injunction**

**130** The Court of Queen's Bench, on application by a college, may grant an injunction enjoining any person from doing any act that contravenes section 128, despite any penalty that may be provided by section 129 in respect of that contravention.

RSA 2000 cH-7 s130;2009 c53 s79

## **Part 8**

### **Regulations, Bylaws, Codes of Ethics and Standards of Practice**

**Council regulations**

**131(1)** A council may make regulations

- (a) respecting requirements for and applications for registration and practice permits, including but not restricted to
  - (i) education, experience, enrolment in programs of studies, successful completion of examinations, including limiting the number of times examinations may be taken, and holding of certificates and diplomas;
  - (ii) recognizing professions in other jurisdictions for the purposes of section 28(2)(b);
  - (iii) requirements for the purposes of section 28(2)(b);
  - (iv) carrying professional liability insurance and governing the minimum coverage and type of insurance required to be carried;
  - (v) providing evidence of being a Canadian citizen or lawfully permitted to work or study in Canada;
  - (vi) providing evidence of having good character and reputation;
  - (vii) providing evidence respecting standards of language proficiency;
  - (viii) for the purposes of section 28(2)(c), determining the combination of education, experience, practice and other qualifications that demonstrates the competence required for registration as a regulated member;
- (b) respecting the evaluation of education, training, experience, practice and competence required of applicants for registration as regulated members and of

- applicants for practice permits, including the establishment or designation of an entity that may conduct all or part of an evaluation;
- (c) respecting which restricted activities a regulated member or category of regulated members may provide and conditions respecting the provision of restricted activities;
  - (d) respecting
    - (i) who may perform restricted activities under section 4(1)(b) of Schedule 7.1 to the *Government Organization Act* with the consent of and under the supervision of a regulated member, and
    - (ii) how regulated members must supervise persons referred to in subclause (i);
  - (e) respecting conditions on practice permits;
  - (f) establishing and respecting continuing competence programs including the requirements of those programs;
  - (g) establishing and respecting practice visits as part of a continuing competence program and respecting directions to be imposed and complied with under section 51(5)(b)(ii);
  - (h) respecting reinstatement of registration and practice permits cancelled under Part 4;
  - (i) respecting the establishment of registers for and respecting categories of regulated members;
  - (j) imposing the conditions on categories of regulated members, restricting the time periods of registration and practice permits of categories of members and restricting renewal of registration and practice permits of categories of members;
  - (j.1) respecting reissuing practice permits and reinstating registration;
  - (k) respecting the use of abbreviations, initials and titles within the meaning of the schedules to this Act and the use of the words “specialist”, “registered” and “regulated” and the phrase “regulated health professional” by a regulated member or a category of regulated members;
  - (l) respecting the use of and authorizing the use of the titles “doctor”, “surgeon”, “pathologist” and “oncologist” and the abbreviation “Dr.”;

- (m) respecting the establishment of a register of regulated members and the entry of information in the register and removal of that information from the register;
- (n) respecting information to be provided to the registrar by regulated members under section 33;
- (n.1) respecting disclosure of information about its members;
- (o) respecting alternative complaint resolution processes;
- (p) respecting the period of time during which a college is obliged to provide information under section 119(4);
- (q) respecting other matters related to this Act.

**(2)** A regulation under this section does not come into force unless it has been approved by the Lieutenant Governor in Council.

RSA 2000 cH-7 s131;2001 c21 s22; 2005 c13 s4(3);  
2006 c19 s2(11);2007 c32 s1(29);2008 c34 s14

### **Bylaws**

**132(1)** A council may make bylaws

- (a) respecting the governance of the college and the management and conduct of its affairs including the management and carrying out of powers and duties by council, committees, tribunals, panels and other entities;
- (b) respecting the appointment, election, establishment and removal of officers, employees, committees, tribunals, panels and other entities and their members, and their powers and duties;
- (c) establishing a council and respecting the number and selection or election of the voting and non-voting members of council, their terms of office, removal from office and the filling of vacancies;
- (d) respecting quorum, procedures at meetings and the holding of council, committees, tribunals and other entities meetings by mail, telephone conference, audiovisual or other electronic means;
- (e) establishing how or by whom expenses and remuneration payable to members of council, committees, tribunals and other entities are determined;
- (f) respecting the establishment of registers of other members and the entry of information in the registers and the removal of that information;

- (g) respecting other members, including transitional provisions respecting such members under a former Act;
- (h) establishing the date by which regulated members are to apply for renewal of practice permits and providing for reinstatement of registration and reissuance of practice permits cancelled under this Act except those cancelled under Part 4;
- (i) respecting the naming of a professional corporation and the name under which a professional corporation may provide professional services;
- (j) establishing a record of professional corporations and respecting the entry of information in the records and the removal of that information from the records;
- (k) respecting the providing of information on expired and cancelled annual permits of professional corporations;
- (l) respecting registration and annual permits of professional corporations and the information to be submitted by professional corporations;
- (m) establishing the date on which an annual permit of a professional corporation expires;
- (m.1) respecting the use of the term “specialist” by a regulated member or a category of regulated members;
- (n) respecting benefits programs and educational incentives;
- (o) respecting forms and notices;
- (o.1) subject to section 120(3) and (4), respecting the giving of documents and notices;
- (p) respecting costs, fees, levies and assessments to be paid by regulated members and applicants with respect to registration, practice permits, professional corporations, annual permits and late payment fees under this Act or the bylaws and costs, fees, levies and assessments for any accreditation, review, appeal, thing or service provided by the college under this Act or the bylaws;
- (q) respecting the publication and distribution of information described in sections 60(6) and 119(1);
- (r) respecting the approval of bylaws;



- (s) subject to an approval under section 27, respecting setting and negotiating professional fees and guidelines on professional fees;
- (t) respecting the development of or adoption of a code of ethics and standards of practice.

(2) The *Regulations Act* does not apply to bylaws under this section.

RSA 2000 cH-7 s132;2001 c21 s23;2003 c39 s5;  
2006 c19 s2(12);2007 c32 s1(30);2016 c9 s9

#### Approval of programs and courses

**132.1** Before the council approves or removes the approval from a program of study or an educational course under section 3, the council must consult with the Minister of Health and the Minister of Enterprise and Advanced Education and must consider the comments received from those Ministers.

2001 c21 s24;2006 c19 s2(13);2007 c32 s1(31);  
2013 c10 s17

#### Code of ethics, standards of practice

**133(1)** A council may, in accordance with procedures set out in the bylaws, develop and propose the adoption of a code of ethics and standards of practice for a regulated profession and may develop and propose amendments to an adopted code of ethics or standards of practice.

(2) The college must provide, for review and comment, a copy of a proposed code of ethics and proposed standards of practice and proposed amendments to

- (a) its regulated members,
- (b) the Minister, and
- (c) any other persons the council considers necessary.

(3) A council may adopt a code of ethics and standards of practice and may adopt amendments to a code of ethics or standards of practice after it has reviewed and considered the comments received from a review described in subsection (2).

(4) The *Regulations Act* does not apply to a code of ethics or to standards of practice adopted or amended under this section.

(5) The college must ensure that copies of the code of ethics and standards of practice adopted under subsection (3) are readily available to the public and regulated members, and the copies may be distributed in the manner directed by the council.

RSA 2000 cH-7 s133;2007 c32 s1(32)

**Lieutenant Governor in Council regulations**

**134** The Lieutenant Governor in Council may make regulations

- (a) respecting the expenses for the purposes of sections 82(1)(j) and 89(6);
- (b) respecting information to be provided by regulated members under section 33(4)(b);
- (c) authorizing the Minister to use, retain and disclose information that is disclosed to the Minister in accordance with this Act;
- (c.1) authorizing persons to receive information disclosed on the request of the Minister pursuant to section 122(1);
- (d) respecting fees under sections 31(6) and 41(8);
- (e) specifying organizations for the purposes of section 119(2);
- (f) respecting the consultation requirements to be followed before an order is made under section 135.1 or 135.2 or before a regulation is made under section 135.3 or 135.4;
- (g) respecting any other matter under this Act.

RSA 2000 cH-7 s134;2003 c39 s6;2007 c32 s1(33)

**Ministerial regulations**

**134.1** The Minister may make regulations respecting inspectors, inspections and inspection committees for the purposes of Part 3.1.

2008 c34 s16

**Transitional regulations**

**135(1)** The Lieutenant Governor in Council may make regulations

- (a) respecting the transition to this Act of anything under a former Act, including the interpretation of any transitional provision in this Act;
- (b) to remedy any confusion, difficulty, inconsistency or impossibility resulting from the transition to this Act from a former Act.

**(2)** A regulation made under subsection (1) may be made retroactive to the extent set out in the regulation.

**(3)** If there is a conflict between a regulation made under subsection (1) and a provision in a schedule to this Act, the regulation prevails.

(4) A regulation made under subsection (1) is repealed on the earliest of

- (a) the coming into force of an amendment that adds the subject-matter of the regulation to this Act;
- (b) the coming into force of a regulation that repeals the regulation made under subsection (1);
- (c) two years after the regulation comes into force.

(5) The repeal of a regulation under subsection (4)(b) or (c) does not affect anything done, incurred or acquired under the authority of the regulation before the repeal of the regulation.

1999 cH-5.5 s135

## **Part 8.1**

### **Direction, Support and Variation**

#### **Minister's direction**

**135.1(1)** If in the opinion of the Minister it is in the public interest or if in the opinion of the Minister a direction would provide for matters related to health, safety or quality assurance, the Lieutenant Governor in Council, on the recommendation of the Minister after the Minister has consulted with the college in accordance with the regulations made under section 134(f), may, by order, direct a council to do any one or more of the following:

- (a) to adopt standards of practice or adopt amendments to its standards of practice under section 133, as set out in the order;
- (b) to make bylaws under section 132, as set out in the order;
- (c) to make regulations under section 131, or under a Schedule, as set out in the order;
- (d) to carry out any power or duty of a council under this Act or a bylaw, in the manner set out in the order.

(2) Despite section 133 and the bylaws of a college, the Minister may, in an order under subsection (1), provide for the procedure to be followed in developing, proposing, consulting on and reviewing a regulation or bylaw to be made or standards of practice to be adopted or amendments to be adopted pursuant to subsection (1).

(3) A council must, within 45 days of being given a copy of an order under this section or any other time period set out in the order, comply with an order made under this section.

2007 c32 s1(34)

**Support****135.2(1)** If

- (a) requested by a college, or
- (b) in the opinion of the Minister
  - (i) a college requires support in carrying out its powers and duties under section 3, and
  - (ii) it is in the public interest,

the Lieutenant Governor in Council, on the recommendation of the Minister after the Minister has consulted with the college in accordance with the regulations made under section 134(f), may, by order, with respect to a college

- (c) provide for the appointment of one or more persons as administrators;
- (d) prescribe the term of office of any person appointed as an administrator;
- (e) authorize the payment of remuneration and expenses to any person appointed as an administrator;
- (f) authorize a person appointed as an administrator to carry out as specified in the order any of the powers and duties of the college and of its council, its officers and its committees under this Act and the bylaws.

**(2)** The carrying out of a power or duty by a person appointed as an administrator pursuant to an order under subsection (1) is deemed to be the carrying out of a power or duty by the college, its council, its officers or its committees.

2007 c32 s1(34)

**Variation**

**135.3** The Lieutenant Governor in Council may, on the recommendation of the Minister after the Minister has consulted with the college in accordance with the regulations made under section 134(f), by regulation, vary any provision of this Act as the provision applies to a college and its council, its officers or its committees.

2007 c32 s1(34)

**Lieutenant Governor in Council regulations**

**135.4(1)** The Lieutenant Governor in Council may, with respect to any college, make any regulation that its council may make under section 131 or under a Schedule.

- (2) A regulation made under subsection (1) is deemed to be an approval by the Lieutenant Governor in Council of a regulation made by a council under section 131 or under a Schedule.
- (3) The Lieutenant Governor in Council may by order, with respect to a college, make any bylaw that a council may make under section 132.
- (4) A bylaw made under subsection (3) is deemed to be a bylaw made by a council under section 132.
- (5) The Lieutenant Governor in Council may by order, with respect to a college, make standards of practice or make amendments to standards of practice that a council may adopt after a review under section 133.
- (6) Standards of practice or amendments to the standards of practice made under subsection (5) are deemed to be standards of practice or amendments adopted by a council in accordance with section 133.
- (7) A regulation, a bylaw or standards of practice or an amendment to standards of practice made under this section prevails over any regulation, bylaw or standards of practice, as amended, made or adopted by a council, with which it conflicts or is inconsistent.
- (8) A regulation under subsection (1) or an order under subsection (3) or (5) made by the Lieutenant Governor in Council must be made on the recommendation of the Minister after the Minister has consulted with the college in accordance with the regulations made under section 134(f).
- (9) The *Regulations Act* does not apply to bylaws, standards of practice or amendments to standards of practice made under this section, but the bylaws, standards of practice or amendments to standards of practice must be published in Part 1 of The Alberta Gazette.

2007 c32 s1(34)

## **Part 9**

### **Consequential Amendments, Repeals and Coming into Force**

**136 to 138** *(These sections make consequential amendments to other Acts. The amendments have been incorporated into those Acts.)*

**140** *(This section amends another Act; the amendment has been incorporated into that Act.)*

**141** Repealed 2005 c13 s8.

**142 to 146** *(These sections make consequential amendments to other Acts; the amendments have been incorporated into those Acts.)*

**147(1)** Repealed 2002 cS-20.5 s24.

**(2) to (6)** *(These subsections amend other Acts; the amendments have been incorporated into those Acts.)*

**148 to 151** *(These sections amend other Acts; the amendments have been incorporated into those Acts.)*

**152(1)** *(This provision has been consolidated.)*

**(2)** Repealed 2013 cS-19.3 s3.

**153(1)** Repealed 2003 c16 s117.

**(2) to (4)** *(These provisions have been consolidated.)*

**154** Repealed 2003 c16 s117.

**155(1)** **The *Alberta Health Care Insurance Act* is amended in section 22(7)**

**(a), (b)** *(These provisions have been consolidated.)*

**(c) by repealing clause (k).**

**(2) to (6)** *(These provisions have been consolidated.)*

RSA 2000 cH-7 s155;RSA 2000 cH-5 s116

### Repeals

**156** The following are repealed:

(a) *Chiropractic Profession Act;*

*(NOTE: Clause (a) effective March 1, 2007.)*

(b) *Dental Mechanics Act;*

*(NOTE: Clause (b) effective September 1, 2002.)*

(c) *Dental Profession Act;*

*(NOTE: Clause (c) effective December 31, 2001.)*

(d) *Medical Profession Act;*

*(NOTE: Clause (d) effective December 16, 2009.)*

(e) *Nursing Profession Act;*

*(NOTE: Clause (e) effective November 30, 2005.)*

(f) *Occupational Therapy Profession Act;*

*(NOTE: Clause (f) effective October 5, 2006.)*

(g) *Opticians Act;*

*(NOTE: Clause (g) effective March 23, 2011.)*

(h) *Optometry Profession Act;*

*(NOTE: Clause (h) effective April 1, 2003.)*

(i) *Physical Therapy Profession Act;*

*(NOTE: Clause (i) effective May 8, 2011.)*

(j) *Podiatry Act;*

*(NOTE: Clause (j) effective July 2, 2012.)*

(k) *Psychology Profession Act;*

*(NOTE: Clause (k) effective January 15, 2006.)*

(l) *Registered Dietitians Act;*

*(NOTE: Clause (l) effective May 1, 2002.)*

(m) *Social Work Profession Act;*

*(NOTE: Clause (m) effective April 1, 2003.)*

(n) *Health Disciplines Act, except the Schedule;*

(o) *clause (a) of the Schedule to the Health Disciplines Act;*

*(NOTE: Clause (o) effective September 15, 2016.)*

(p) *clause (b) of the Schedule to the Health Disciplines Act;*

*(NOTE: Clause (p) effective May 27, 2009.)*

(q) *clause (c) of the Schedule to the Health Disciplines Act;*

(NOTE: Clause (q) effective May 1, 2005.)

(r) clause (d) of the Schedule to the *Health Disciplines Act*;

(NOTE: Clause (r) effective November 25, 2005.)

(s) clause (e) of the Schedule to the *Health Disciplines Act*;

(NOTE: Clause (s) effective April 12, 2003.)

(t) repealed 2013 cS-19.3 s12;

(u) clause (g) of the Schedule to the *Health Disciplines Act*;

(v) clause (h) of the Schedule to the *Health Disciplines Act*;

(NOTE: Clause (v) effective July 1, 2002.)

(w) clause (i) of the Schedule to the *Health Disciplines Act*;

(NOTE: Clause (w) effective April 1, 2006.)

(x) clause (j) of the Schedule to the *Health Disciplines Act*;

(NOTE: Clause (x) effective November 25, 2005.)

(y) clause (k) of the Schedule to the *Health Disciplines Act*;

(NOTE: Clause (y) effective May 1, 2005.)

(z) clause (l) of the Schedule to the *Health Disciplines Act*;

(NOTE: Clause (z) effective March 1, 2002.)

(aa) clause (m) of the Schedule to the *Health Disciplines Act*;

(bb) repealed 2013 cS-19.3 s12;

(cc) *Dental Disciplines Act*, except sections 1(e)(i) to (iii), (f), (g) and (l), 2 to 4, 7(1) to (3) and 75(1)(a)(i) to (iii);

(NOTE: Clause (cc) effective October 31, 2006.)

(dd) sections 1(e)(i) and (f), 2, 7(1) and 75(1)(a)(i) of the *Dental Disciplines Act*;

(NOTE: Clause (dd) effective October 31, 2006.)

(ee) sections 1(e)(ii) and (g), 3, 7(2) and 75(1)(a)(ii) of the *Dental Disciplines Act*;

(NOTE: Clause (ee) effective October 19, 2004.)



(ff) sections 1(e)(iii) and (l), 4, 7(3) and 75(1)(a)(iii) of the *Dental Disciplines Act*.

(NOTE: Clause (ff) effective January 1, 2006.)

RSA 2000 cH-7 s156;2013 cS-19.3 s12

### Coming into force

**157** This Act, except for section 143(3), comes into force on Proclamation.

1999 cH-5.5 s157

(NOTE: Parts 1 to 8, except sections 22, 23, 24, 25 and 26, sections 136, 137, 138 and 145, except subsection (2.1), section 155, except subsections (1)(c), (3) and (6), sections 156(c), 158 and 159 and Schedule 7, except sections 11 to 18, proclaimed in force December 31, 2001.

Section 156(z) and Schedule 11 proclaimed in force March 1, 2002.

Sections 1, 22, 23, 24, 25, 26 and 156(l) and Schedule 23 proclaimed in force May 1, 2002.

Section 156(v) and Schedules 9 and 28 proclaimed in force July 1, 2002.

Sections 144 and 156(b) and Schedule 8 proclaimed in force September 1, 2002.

Section 145(2.1) and Schedule 7 sections 11 to 18 proclaimed in force January 1, 2003.

Sections 149, 154 and 156(h) and (m) and Schedules 17 and 27 proclaimed in force April 1, 2003.

Sections 155(3) and 156(s) and Schedule 10 proclaimed in force April 12, 2003.

Section 156(ee) and Schedule 6 proclaimed in force October 19, 2004.

Section 156(q) and (y) and Schedule 12 proclaimed in force May 1, 2005.

Section 156(r) and (x) and Schedule 25 proclaimed in force November 25, 2005.

Sections 147(2) to (6) and 156(e) and Schedule 24 proclaimed in force November 30, 2005.

*Section 156(ff) and Schedule 4 proclaimed in force January 1, 2006.*

*Sections 153 and 156(k) and Schedule 22 proclaimed in force January 15, 2006.*

*Sections 155(6) and 156(w) and Schedule 3 proclaimed in force April 1, 2006.*

*Section 150(1) to (3) and Schedule 19 proclaimed in force on the coming into force of the Pharmacy and Drug Act. Pharmacy and Drug Act proclaimed in force April 1, 2007.*

*Section 156(f) and Schedule 15 proclaimed in force October 5, 2006.*

*Section 156(cc) and (dd) and Schedule 5 proclaimed in force October 31, 2006.*

*Sections 143(1), (2) and (4) and 156(a) and Schedule 2 proclaimed in force March 1, 2007.*

*Section 156(p) and Schedule 26 proclaimed in force May 27, 2009.*

*Sections 142, 146 and 156(d) and Schedule 21 proclaimed in force December 16, 2009.*

*Sections 148(2) and (4) and 156(g) and Schedule 16 proclaimed in force March 23, 2011.*

*Sections 151 and 156(i) and Schedule 20 proclaimed in force May 8, 2011.*

*Sections 152(1)(a) and (c) and 156(j) and Schedule 21.1 proclaimed in force July 2, 2012.*

*Sections 140 and 156(o) and Schedule 18 proclaimed in force September 15, 2016.)*

## **Part 10**

### **Profession-Specific Provisions**

#### **Unprofessional conduct fines table**

**158** For the purposes of this Act, the unprofessional conduct fines table is the following:

#### **Unprofessional Conduct Fines Table**

The following columns of maximum fines apply to proceedings under Part 4:

	Column 1	Column 2	Column 3
maximum fine for each finding of unprofessional conduct	\$1000	\$5000	\$10 000
maximum aggregate fine for all findings of unprofessional conduct arising out of a hearing	\$5000	\$25 000	\$50 000

1999 cH-5.5 s158

### Interpretation

**159(1)** In this Part, “proceedings” means all of the steps and procedures that are available under a former Act to investigate or inquire into conduct and to resolve a complaint, including any of the following that relate to the investigation, inquiry or complaint:

- (a) receipt of complaints;
- (b) consideration of complaints;
- (c) deliberations;
- (d) consultations;
- (e) mediation settlements and other alternative complaint resolution processes;
- (f) investigations;
- (g) inquiries;
- (h) reports;
- (i) hearings;
- (j) findings;
- (k) decisions;
- (l) reviews;
- (m) appeals;
- (n) orders;
- (o) any other act of an administrative or quasi-judicial nature.

**(2)** Despite section 1(2), in the schedules a reference to “this Act” includes the regulations and bylaws under this Act.

*Disciplines Act* is deemed to be a reference to the council under this Act;

- (h) of the governing body of the association under Part 5 of the *Health Disciplines Act* are vested in and may be exercised by the council of the College of Hearing Aid Practitioners of Alberta, and any reference to the governing body of the association in Part 5 of the *Health Disciplines Act* is deemed to be a reference to the council under this Act;
- (i) of the Health Disciplines Director under section 29(2) of the *Health Disciplines Act* are vested in and may be exercised by the complaints director of the College of Hearing Aid Practitioners of Alberta, and any reference to the Director in section 29(2) of the *Health Disciplines Act* is deemed to be a reference to the complaints director under this Act.

(4) For the purposes of subsection (2), a reference to registration in the *Health Disciplines Act* is deemed to be a reference to registration and a practice permit under this Act.

(5) If on the coming into force of this Schedule the Health Disciplines Board has commenced but not concluded hearing an appeal, the members of the Board continue as the Board for the purposes of hearing the appeal until it is concluded, as if this Schedule and Part 4 had not come into force and the former Act had not been repealed with respect to the designated health discipline of Hearing Aid Practitioners.

(6) Any decision and order made by a committee as defined in Part 4 of the *Health Disciplines Act*, the Health Disciplines Board, a hearing tribunal or a council pursuant to this section is deemed to be a decision and order of a hearing tribunal or the council under this Act.

(NOTE: Schedule 9 proclaimed in force July 1, 2002.)

## Schedule 10

### Profession of Licensed Practical Nurses

#### College and records

**1(1)** On the coming into force of this Schedule, the corporation known as the College of Licensed Practical Nurses of Alberta is continued as a corporation under the same name.

**(2)** On the coming into force of this Schedule, the College of Licensed Practical Nurses of Alberta has the ownership, custody

and control of records of the Health Disciplines Board respecting the following:

- (a) current and former complaints and allegations of professional misconduct or incompetence made against registered members of the designated health discipline of Licensed Practical Nurses under the *Health Disciplines Act* and proceedings taken under the *Health Disciplines Act* in respect of those complaints and allegations,
- (b) current and former applications for registration as registered members in the designated health discipline of Licensed Practical Nurses under the *Health Disciplines Act* and the educational qualifications of applicants for registration in the designated health discipline of Licensed Practical Nurses,
- (c) registered members and former registered members in the designated health discipline of Licensed Practical Nurses under the *Health Disciplines Act* and any registers or other material relating to registration and conditions, restrictions or limitations on registration,
- (d) decisions and orders made with respect to registered members or former registered members in the designated health discipline of Licensed Practical Nurses under the *Health Disciplines Act*, and
- (e) records and information referred to in section 61 of the *Health Disciplines Act* relating to the designated health discipline of Licensed Practical Nurses under the *Health Disciplines Act*.

**(3)** Despite section 35(b) of the *Freedom of Information and Protection of Privacy Act*, on the coming into force of this Schedule the College of Licensed Practical Nurses of Alberta has the ownership, custody and control of records described in subsection (2), and the records must be given to the College of Licensed Practical Nurses of Alberta.

**(4)** The Minister may request and collect information and records described in subsection (2) from the College of Licensed Practical Nurses of Alberta for purposes directly related to or necessary for any proceeding, including an appeal described in section 8(5) of this Schedule, and preparation for a proceeding, with respect to an action or claim, or with respect to the negotiation or settlement of an action or claim before it is before a Court or while it is before a Court, and the Minister may disclose the information or records collected, as the Minister considers appropriate, in carrying out those purposes.

**Use of titles, etc.**

**2** A regulated member of the College of Licensed Practical Nurses of Alberta may, as authorized by the regulations, use any of the following titles, abbreviations and initials:

- (a) licensed practical nurse;
- (b) practical nurse;
- (c) nursing assistant;
- (d) L.P.N.;
- (e) R.N.A.
- (f) repealed 2001 c21 s37.

RSA 2000 cH-7 Sched. 10 s2;2001 c21 s37

**Practice**

**3** In their practice, licensed practical nurses do one or more of the following:

- (a) apply nursing knowledge, skills and judgment to assess patients' needs,
- (b) provide nursing care for patients and families,
- (b.1) teach, manage and conduct research in the science, techniques and practice of nursing, and
- (c) provide restricted activities authorized by the regulations.

RSA 2000 cH-7 Sched. 10 s3;2008 c34 s24

**Fines**

**4** Column 1 of the unprofessional conduct fines table applies to proceedings of the College of Licensed Practical Nurses of Alberta under Part 4.

**Transitional**

**5** On the coming into force of this Schedule,

- (a) the members of the Board of Governors of the College of Licensed Practical Nurses of Alberta under the *Health Disciplines Act* continue as members of the council of the College of Licensed Practical Nurses of Alberta under this Act for the same terms of office unless their terms are terminated earlier under this Act;
- (b) the Registrar of the College of Licensed Practical Nurses of Alberta under the *Health Disciplines Act* continues as

- the registrar of the College of Licensed Practical Nurses of Alberta under this Act for the same term of office unless the term is terminated earlier under this Act;
- (c) the president of the College of Licensed Practical Nurses of Alberta under the *Health Disciplines Act* continues as the president of the College of Licensed Practical Nurses of Alberta under this Act for the same term of office unless the term is terminated earlier under this Act;
  - (d) if a referral has been made under section 30 of the *Health Disciplines Act* or a determination has been made under section 31 of the *Health Disciplines Act* that a hearing should be held and a hearing has commenced but not concluded, the members of the committee, as defined in section 27 of the *Health Disciplines Act*, continue as members of that committee for the purposes of the hearing until it is concluded, as if this Schedule and Part 4 had not come into force and the former Act had not been repealed with respect to the designated health discipline of Licensed Practical Nurses;
  - (e) the members of the Registration Committee established under the *Licensed Practical Nurses Regulation* (AR 103/97) continue as members of a registration committee of the College of Licensed Practical Nurses of Alberta under this Act for the same term of office unless their terms are terminated earlier under this Act.

**Transitional**

**6** On the coming into force of this Schedule, a person who is registered or temporarily registered as a member of the designated health discipline of Licensed Practical Nurses under the *Health Disciplines Act* is deemed to be registered as a regulated member of, and to have been issued a practice permit by the registrar of, the College of Licensed Practical Nurses of Alberta under this Act subject to the same conditions as under the former Act until the practice permit expires or is cancelled under this Act.

**Transitional**

**7(1)** On the coming into force of this Schedule, an application for registration, temporary registration or renewal of registration as a member of the designated health discipline of Licensed Practical Nurses under the *Health Disciplines Act* that has not been concluded must be concluded in accordance with that Act.

**(2)** For the purposes of subsection (1), the powers and duties

- (a) of the Director of Health Disciplines and the Registrar of the designated health discipline of Licensed Practical Nurses under the *Health Disciplines Act* are vested in and may be exercised and performed by the registrar of the College of Licensed Practical Nurses of Alberta, and any reference to the Director or the registrar in the *Health Disciplines Act* is deemed to be a reference to the registrar under this Act;
  - (b) of the Registration Committee of the College of Licensed Practical Nurses of Alberta under the *Health Disciplines Act* are vested in and may be exercised by the registration committee of the College of Licensed Practical Nurses of Alberta under this Act, and any reference to a committee in the *Health Disciplines Act* is deemed to be a reference to the registration committee under this Act;
  - (c) of the Health Disciplines Board under the *Health Disciplines Act* are vested in and may be exercised by the council of the College of Licensed Practical Nurses of Alberta, and any reference to the Health Disciplines Board in the *Health Disciplines Act* is deemed to be a reference to the council under this Act.
- (3)** On the coming into force of this Schedule, a program of studies and an examination approved by the Health Disciplines Board under the *Licensed Practical Nurses Regulation (AR 103/97)* continue as an approved program of study and an examination for the purposes of subsection (1).
- (4)** For the purposes of subsection (1), a reference to a form in section 24(1) of the *Health Disciplines Act* is deemed to be a reference to a form provided for by the bylaws.
- (5)** A person who is registered or whose registration is renewed under this section is deemed to be registered as a regulated member of, and to have been issued a practice permit by, the College of Licensed Practical Nurses of Alberta under this Act subject to the same conditions until the practice permit expires or is cancelled under this Act.

#### **Transitional**

- 8(1)** Any complaint made on or after the coming into force of this Schedule that relates to conduct occurring all or partly before the coming into force of this Schedule must be dealt with under this Act.
- (2)** On the coming into force of this Schedule, any proceedings with respect to a complaint made under the *Health Disciplines Act* or with respect to a preliminary investigation commenced under



section 29(2) of the *Health Disciplines Act*, before the coming into force of this Schedule, with respect to the designated health discipline of Licensed Practical Nurses under the *Health Disciplines Act* that have not been concluded must be concluded in accordance with that Act.

(3) Subject to section 5(e) of this Schedule and subsection (5), for the purposes of subsection (2), the powers and duties

- (a) of the Registrar of the designated health discipline of Licensed Practical Nurses under the *Health Disciplines Act*, except under section 32(1), are vested in and may be exercised by the complaints director of the College of Licensed Practical Nurses of Alberta, and any reference to the registrar in the *Health Disciplines Act*, except in section 32(1), is deemed to be a reference to the complaints director under this Act;
- (b) of the registrar under section 32(1) of the *Health Disciplines Act* are vested in and may be exercised by the president of the College of Licensed Practical Nurses of Alberta under this Act, and any reference to the registrar in section 32(1) of the *Health Disciplines Act* is deemed to be a reference to the president under this Act;
- (c) of the chair of a committee under Part 4 of the *Health Disciplines Act* are vested in and may be exercised by the complaints director of the College of Licensed Practical Nurses of Alberta under this Act, and any reference to the chair in Part 4 of the *Health Disciplines Act* is deemed to be a reference to the complaints director under this Act;
- (d) of the Director of Health Disciplines under the *Health Disciplines Act*, except under sections 17(8) and 29(2), are vested in and may be exercised by the hearings director of the College of Licensed Practical Nurses of Alberta, and any reference to the Director in the *Health Disciplines Act*, except in sections 17(8) and 29(2), is deemed to be a reference to the hearings director under this Act;
- (e) of the committee under section 31 of the *Health Disciplines Act* are vested in and may be exercised by the complaint review committee of the College of Licensed Practical Nurses of Alberta, and any reference to the committee in section 31 of the *Health Disciplines Act* is deemed to be a reference to the complaint review committee under this Act;
- (f) of the committee under Part 4 of the *Health Disciplines Act*, except under section 31, are vested in and may be exercised by a hearing tribunal of the College of Licensed

Practical Nurses of Alberta, and any reference to the committee in Part 4 of the *Health Disciplines Act*, except in section 31, is deemed to be a reference to the hearing tribunal under this Act;

- (g) of the Health Disciplines Board under the *Health Disciplines Act* are vested in and may be exercised by the council of the College of Licensed Practical Nurses of Alberta, and any reference to the Board in the *Health Disciplines Act* is deemed to be a reference to the council under this Act;
- (h) of the governing body of the association under Part 5 of the *Health Disciplines Act* are vested in and may be exercised by the council of the College of Licensed Practical Nurses of Alberta, and any reference to the governing body of the association in Part 5 of the *Health Disciplines Act* is deemed to be a reference to the council under this Act;
- (i) of the Director of Health Disciplines under section 29(2) of the *Health Disciplines Act* are vested in and may be exercised by the complaints director of the College of Licensed Practical Nurses of Alberta, and any reference to the Director in section 29(2) of the *Health Disciplines Act* is deemed to be a reference to the complaints director under this Act.

**(4)** For the purposes of subsection (2), a reference to registration in the *Health Disciplines Act* is deemed to be a reference to registration and a practice permit under this Act.

**(5)** If on the coming into force of this Schedule the Health Disciplines Board has commenced but not concluded hearing an appeal, the members of the Board continue as the Board for the purposes of hearing the appeal until it is concluded, as if this Schedule and Part 4 had not come into force and the former Act had not been repealed with respect to the designated health discipline of Licensed Practical Nurses.

**(6)** Any decision and order made by a committee, as defined in Part 4 of the *Health Disciplines Act*, the Health Disciplines Board, a hearing tribunal or a council pursuant to this section is deemed to be a decision and order of a hearing tribunal or the council under this Act.

*(NOTE: Schedule 10 proclaimed in force April 12, 2003.)*



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