

# **An Act**

## **Respecting the Medical Profession**

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**T**HE ~~Licut.-Governor,~~ by and with the consent of the Legislative Assembly of the  
Province of enacts as follows :

### **Title**

- 1 This Act may be cited as the Medical Profession Act.

### **College of Physicians and Surgeons**

2. The College of Physicians and Surgeons of the Province of  
hereby constituted, and the members of the said College and all persons hereafter regis-  
tered members of the said College under the provisions of this Act, shall be a body cor-  
porate under the name of The College of Physicians and Surgeons of the Province of  
and shall have perpetual succession as hereafter provided and  
the common seal, with power to acquire, hold, and dispose of real estate and chattel pro-  
perty for the purpose of the said College, and to sue and be sued.

3 Every person registered as a member of the College of Physicians and Surgeons of  
the North West Territories at the time of the coming into force of this Act, and whose  
fees are paid to said College, shall be registered as a member of the College of Physicians  
and Surgeons of the Province of by the Registrar thereof  
without fee, and every person registered as aforesaid whose fees are in arrear shall upon  
payment of all arrears to the Registrar of the College of Physicians and Surgeons of the  
North-West Territories receive a receipt therefor, and upon presentation of said receipt  
to the Registrar of the College of Physicians and Surgeons of the Province of  
shall be registered as a member of said last-mentioned  
College by said Registrar without further fee.

4 The Registrar of the College of Physicians and Surgeons of the Province of shall as soon as possible after his appointment obtain from the Registrar of the College of Physicians and Surgeons of the North-West Territories a certified list, under the seal of the College, of the members of the College of Physicians and Surgeons of the North West Territories entitled to be registered as members of the College of Physicians and Surgeons of the Province of under the next preceding clause.

#### **The Council of the College and Election of Members**

5. There shall be a Council of the said College of the Physicians and Surgeons of the Province of to be appointed in the manner hereinafter provided for and hereafter referred to as the Council.

6 The persons entitled to vote at election of members of the Council shall be, as to the first election, the persons who at the time of the passing of this Act are registered members of the College of Physicians and Surgeons of the North West Territories. As to all subsequent elections, all persons registered as members of the College of Physicians and Surgeons of the Province of under this Act.

7 No person shall be eligible to be elected a member of the Council who is not entitled to vote for a member of the Council.

8. The number of persons to be elected as members of the said Council shall be seven and the mode of election shall be by voting papers as hereinafter set out .

(a) There shall be one member elected for each of the following Medical Electoral Districts.

(b) For the purpose of this election the Province of Alberta shall be divided into 7 Medical Electoral Districts, to be known as districts Nos. 1, 2, 3, 4, 5, 6, and 7. These districts are made up from the present Electoral Districts of the Province of Alberta as existing for the purpose of the election of members to the first Provincial Legislature of the said province as follows.

District No. 1.-Is comprised of the Provincial Electoral District of  
Edmonton

District No. 2.- Is comprised of the Provincial Electoral Districts of  
Peace River  
Athabasca  
Saint Albert  
Stoney Plain  
Strathcona  
Leduc  
Sturgeon  
Victoria

District No. 3. Is comprised of the Provincial Electoral Districts of  
Vermillion  
Wetaskiwin  
Ponoka  
Lacombe  
Red Deer

District No. 4. Is comprised of the Provincial Electoral Districts of  
Innisfail  
Rosebud  
Banff  
Gleichen

District No. 5. Is comprised of the Provincial Electoral District of  
Calgary

District No. 6. Is comprised of the Provincial Electoral Districts of  
High River  
Macleod  
Pincher Creek

District No. 7. Is comprised of the Provincial Electoral Districts of  
Lethbridge  
Cardston  
Medicine Hat

(c) The boundaries of the above Medical Electoral Districts are subject to change at any time by the Council.

9. The charge and conduct of the election for the members of the first Council shall be conducted by the Registrar of the College of Physicians and Surgeons of the North West Territories, and the said election shall be conducted in the manner set out in "The Medical Profession Ordinance," being Chap. 52 of the Consolidated Ordinances of the North West Territories, 1898, for the election of the Council of that body, from Sec. 3 to Sec. 32 inclusive. All subsequent elections under this Act shall be under the management of the Registrar of the Council, and such elections shall be held at such time and place as shall be determined by the Council.

10. Every person entitled to vote may vote for \_\_\_\_\_ persons.

11. The Registrar shall mail to each registered practitioner at least one month prior to the day of election a voting paper in the form A in the schedule to this Act, or to the like effect, and such practitioners shall fill in the names of the members he is voting for on the voting paper or on one of the like effect, sign it, and return such voting paper closed to the Registrar on any day preceding the day of election, and any such voting paper received by the Registrar by post previous to the day of election shall be deemed delivered to him.

12. The Council shall appoint two persons, who shall act as scrutineers with the Registrar at the election.

13. On the day succeeding the day of election the voting papers shall be opened by the Registrar in the presence of the scrutineers, who shall scrutinise and count the votes, and a record thereof shall be kept by the Registrar in a proper book to be provided by the said Council.

14. The person who has the highest number of votes in each Medical District shall be the member of the Council for that district for the four years following the date of such election and until his successor is elected.

15 Any person entitled to vote at any election shall be entitled to be present at the opening of the voting papers at such election.

16 In case of an equality of votes between two or more persons, which leaves the election of one or more of the members of the Council undecided, the scrutineers shall forthwith write upon separate slips of paper the names of the persons having such equality of votes, and put such papers in a ballot box ; and the Registrar, in the presence of the scrutineers, shall draw by chance from such ballot box one or more of such papers sufficient to make up the required number, and the person or persons whose names are upon such paper or papers so drawn shall be members of such Council.

17 No person shall be entitled to vote at such election unless all fees to the College shall have been paid.

18. No person shall be eligible for election unless qualified to vote at such election, and any votes cast for any person who is ineligible shall be null and void, and the election shall be declared as if such votes had not been cast.

19. In the event of any person placing more than one name on his voting paper for each district the first one eligible shall be counted.

20 The Registrar shall one month prior to the day on which the election is to be held make out an alphabetical list or register of the registered medical practitioners who are entitled to vote at the election then about to be held, and shall mail a copy of such list or register to each registered practitioner, along with the voting paper provided for in Section II.

~~21~~ In case any medical practitioner entitled to vote complains to the Registrar in writing of the improper omission or insertion of any name on the said list, it shall be the duty of the Registrar forthwith, to examine into the complaint and rectify such error if any there be; and in case any person is dissatisfied with the decision of the Registrar, he may appeal to the judge of the Supreme Court provided that such appeal be lodged with the Judge at least ten days before the day on which the election is to be held, and such Judge shall decide the appeal in a summary way and he may if he deem it necessary, direct such notice of the time and place for hearing the appeal as he may prescribe, to be given to such person as he may specify; and if it is necessary to hear evidence on such appeal, it may be given vice voce under oath or by affidavit as the Judge directs, and the decision of such Judge shall be final and the list shall remain or be altered in accordance with such decision.

22. The list or register so made out shall be held to be the register of persons entitled to vote at the next election, and no person shall be entitled to vote whose name is not upon such register.

23. The Council may make such regulations as they may think expedient not contrary to the provisions of this Act for regulating the procedure in respect of such elections.

24. The voting papers belonging to any election shall not be destroyed until after all petitions in respect of such elections have been decided, but the same together with all other papers in connection with the election shall be retained by the Registrar.

25. No petition against the return of any member shall be entertained unless such petition shall be filed with the Registrar of the Council within sixty days after the election, and shall contain a statement of the grounds on which such election is disputed and unless a copy of such petition is served upon the member whose election is disputed within sixty days of the date of the election.

26. In case of any doubt or dispute as to the legality of the election of any member to the Council it shall be lawful for the Council to hold an enquiry and decide who is the legally elected member of the Council; and the person who they decide to have been elected shall be and be deemed to be the member legally elected, and if the election is found to be illegal the Council shall have power to order a new election.

27. In case of the failure in any election under this Act to elect the required number of duly qualified members of the Council, or in the event of any vacancy occurring from death, resignation or any other cause, of any member of the Council, it shall be the duty of the Registrar to hold a new election for such vacancy or vacancies as soon as possible and such elections shall be conducted in the same manner as provided for the election of the full Council.

**President and Officers.==Meetings of the Council.**

28. The Council shall elect annually from its own body a President and Vice-President

(a) They shall appoint a Registrar-Treasurer from the members of the College who is not a member of the Council who shall hold office at the pleasure of the Council.

(c) And such other officers as are necessary for the working of this Act.

(d) The Council shall fix by by-law or resolution from time to time the salaries and fees to be paid to such officers and to the Board of Examiners hereinafter mentioned.

29. The Council shall appoint annually from among its members an Executive Committee, to be called together by the Registrar, to take cognizance of and action upon all such matters as may be delegated to it by the Council, or as may require immediate interference or attention between meetings of the Council; and all such acts shall be valid only till the next ensuing meeting of the Council; but the Committee shall have no power to alter, repeal, or suspend any bye-law of the Council.

30. The Council may make such rules and regulations as to the times and places of future meetings of the Council and the mode of summoning the same as to the Council seems expedient, which rules and regulations shall remain in force until altered at any subsequent meeting; and in the absence of any rule or regulation as to summoning meetings of the Council, it shall be lawful for the President thereof or in the event of his absence or death for the Registrar to summon the same at such time and place as to him seems fit, by a circular letter to be mailed to each member.

31. (a) In the event of the absence of the President from any meeting, the Vice-President, or in his absence some other member to be chosen from the members present, shall act as President.



(b) There must always be ~~three~~ members of the Council present to form a meeting, and all acts of the Council shall be decided by a majority of those present.

(c) At all meetings the President for the time being shall have a casting vote in the event of an equality of votes, in addition to the vote he is entitled to as a member of the Council.

32. There shall be paid to members of the Council such fees for attendance and such reasonable travelling expenses as may from time to time be fixed by bye-law or resolution passed by the said Council.

#### **Registration.**

33. The Council shall cause to be kept by the Registrar a book or register to be known as the "Medical Register, in which shall be entered the name of every person registered according to the provisions of this Act, and from time to time the names of all persons who have complied with the provisions hereinafter contained, and with the rules and regulations made or to be made by the Council respecting the qualifications to be required from the practitioners of Medicine, Surgery, or Midwifery, in the Province of \_\_\_\_\_, and those persons only whose names are inscribed in the book or register above mentioned, and who are not under suspension by the Council, shall be deemed to be qualified and licensed to practise Medicine, Surgery, and Midwifery in the said Province of \_\_\_\_\_, except as hereinafter provided, and such book or register shall at all times be open and subject to inspection by any person.

34. It shall be the duty of the Registrar to keep his register correct in accordance with the provisions of this Act and the rules, orders, and regulations of the Council, and he shall from time to time make the necessary alterations in the addresses or qualifications of the persons registered under this Act, and the said Registrar shall perform such other duties as may be imposed on him by the Council.

#### The Council Shall Place Upon the Register

35. The Council shall admit upon the register any person who shall produce from any College or School of Medicine and Surgery recognized by the College of Physicians and Surgeons of the Province of Alberta a diploma of qualification, and which exacts for such diploma attendance on at least a four years' course of lectures of at least six months each, evidence of which shall be produced if required, and who shall furnish to the Council satisfactory evidence of identification, and pass before the members thereof or examiners appointed by them from time to time for the purpose, a satisfactory examination appertaining to the profession of medicine and his fitness and capacity to practice medicine, surgery and midwifery, and shall pay to the Registrar of the College of Physicians and Surgeons of the Province of                      the sum of fifty dollars towards defraying the expenses of the examination board and, in addition, the fee for registration.

36. The Council may at any time direct the name of any person improperly registered to be erased from the register by the Registrar, and such name shall be so erased.

37. Whenever there is established under the Act of the Parliament of Canada known as "The Canada Medical Act, 1902," or any Act in amendment thereof or substitution therefor, a register for Canada of Medical Practitioners under the control of the Medical Council appointed or elected pursuant to the provisions of the aforesaid Act or Acts, then notwithstanding anything in this Act contained, any person duly registered in the said Medical Register for Canada as a Medical and Surgical Practitioner shall be deemed qualified and entitled to be registered in the Medical Register of the Province of \_\_\_\_\_ as a duly qualified Medical and Surgical Practitioner, and such person and no other shall be registered, and such registration shall be made upon production of a certificate under the hand of the Registrar of the said Medical Council of Canada certifying that such person is duly registered in the said Medical Register of Canada, and upon satisfactory proof of identity of such person, provided that such person may be required to pay such fee for such registration in the province of \_\_\_\_\_ as the Medical Council of the province of \_\_\_\_\_ may impose in that behalf, and provided that the provisions of this Section shall not apply to or affect any person duly registered under the said Act at the time the "Canada Medical Act, 1902" or any amendment thereof or substitutive Acts therefor become operative.

### **Fees**

38. The fee for registration under this Act shall be fifty dollars.

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39 Each member shall pay to the Registrar, or to any person deputed by the Registrar to receive it, such annual fee as may be determined on by by-law of the Council, not exceeding two dollars, towards the general expenses of the College, which fee shall be payable on the first day of January in each year, and such fee shall be deemed to be a debt due by each member of the College and shall be recoverable, with the costs of suit, in the name of the College of Physicians and Surgeons of the Province of \_\_\_\_\_

40. Provided that the Council may by resolution remit any annual fees due to the College by any member who is or has been resident out of the province of \_\_\_\_\_ during the period in respect of which such fees became payable.

45 If the committee consider that the offence is not of such gravity or importance as to warrant in their judgment the person's name being erased from the register, they may suspend such person from the privileges of a registered practitioner for such time as they may think fit, or may impose such other penalty or sentence as the offence warrants and order the Council to have their finding carried out ; and unless the offender shall within thirty days after receiving written notice from the Registrar of the finding of the committee comply with their judgment, the Council may suspend the offender from the privileges of a registered practitioner until judgment is complied with. The judgment of the committee under this section shall be final, and not subject to any appeal.

46. The Executive Committee of the Council under this Act may and upon the written application of any three registered practitioners to the Council shall make a preliminary inquiry into the facts regarding such conduct of any registered practitioner as is set out in clause 44, and if the facts justify a reference to the Council for a more thorough and complete investigation, the Executive Committee shall make such reference, and the Council shall order an investigation by the Discipline Committee as heretofore provided.

47. The Council or Executive Committee may demand, if they see fit to do so, from any party or parties requesting an investigation, before undertaking same a reasonable amount as a deposit to cover the costs and expenses of such an investigation, and in case the investigation establishes the fact that the complaint was frivolous or vexatious, such deposit may be applied to cover the expenses of same, otherwise the deposit to be returned to the party or parties making it.

48 The Council may order to be paid out of the funds at their disposal such costs as may to them seem just to any person against whom any complaint has been made which when finally determined, is found to be frivolous and vexatious.

### **General Powers of the Council**

41 The Council shall from time to time as occasion may require, make orders, regulations or bye-laws for regulating the register to be kept under this Act, and shall from time to time make rules and regulations for the guidance of the examiners, and may prescribe the subjects and modes of examination, and generally make all such rules and regulations in respect of examinations not contrary to the provisions of this Act, as the Council may deem expedient and necessary.

42 The Council may from time to time make, alter or amend and repeal rules and regulations for the well-being and discipline of the Council, the conduct of its affairs, and the promotion of medical and surgical knowledge, and the disposition of the funds of the Council, provided such rules and regulations be not repugnant to this Act.

### **Disciplinary**

43 The Council shall from time to time appoint and shall always maintain for the purposes hereinafter named a committee of their own body to be known as the Discipline Committee, not exceeding five in number, of whom the quorum shall be three, and may at any time alter the number, constitution and tenure of office of such committee.

44 The Discipline Committee shall investigate on a written order of the Council the facts regarding any registered practitioner who shall have been convicted of an indictable offence, or who is known or reported to be guilty of or who is charged with unbecoming, improper or criminal conduct, professional or otherwise, and if the committee consider the offence warrants it, they shall direct the Council to erase the name of such registered practitioner from the register, and the Council shall order the Registrar to strike the name of such person from the register as aforesaid, and he shall do so.

49 When the Council directs the erasure from the register of the name of any person, the name of that person shall not be again entered on the register except by direction of the Council or by an order of a Judge of the Supreme Court.

50. If the Council think fit in any case they may direct the Registrar to restore to the register any name or entry erased therefrom, either without fee or on payment of such fee, not exceeding the registration fee, as the Council may fix and the Registrar shall restore the same accordingly.

51. The Discipline Committee appointed under Section 3 as well as the Executive Committee of the Council may, for the purpose of the execution of their duties under this Act, employ at the expense of the Council such legal or other assistance as these committees may think necessary, and the person whose conduct is the subject of inquiry shall also have the right to be represented by Counsel.

52. Provided that all meetings of such committees when held for taking evidence or otherwise ascertaining the facts shall be held within the judicial districts or sub-judicial districts where the member complained of resides or the alleged offence was committed.

53. At least one week before the meeting of the committee to be held for taking evidence, or otherwise ascertaining the facts, a notice shall be served upon the person whose conduct is the subject of enquiry; and such notice shall embody a copy of the charges made against him or a statement of the subject matter of the enquiry, and shall also specify the time and place of such meeting. The testimony of witnesses shall be taken under oath, which the chairman or acting chairman of the committee is hereby authorised to administer, and there shall be full right to cross-examine all witnesses called and to adduce evidence in defence and reply.

54. For the purpose of procuring attendance and evidence of a witness before the committee, a Judge of the Supreme Court may, on application of any party to the enquiry, order the issue by the Clerk of the Supreme Court or a deputy clerk of a writ or subpoena ad testificandum or a writ of subpaena duces tecum. The rules of evidence on such enquiry and the proceedings and penalties in the case of disobedience to any such writ shall be the same as obtained in civil cases in the said court.

55. In the event of the non-attendance of the person whose conduct is the subject of such enquiry the committee may upon proof of personal service of the notice aforesaid in accordance with the provisions of this Act which proof of service may be statutory declaration proceed with the subject matter of the enquiry in his absence and make the report of the facts without further notice to such person.

56. Any person whose name has been ordered to be erased from the register may appeal from the decision of the Council to a Judge of the Supreme Court at any time within six months of the date of the order for such erasure ; and such Judge may upon the hearing of such appeal make such order as to the restoration of the name so erased or confirming such erasure or for further inquiries by the committee or council into the facts of the case and as to costs as shall be just.

57. The appeal may be by summons for the council of the said college to show cause served upon the Registrar and shall be founded upon a copy of the proceedings before the committee the evidence taken, the committees report and the order of the council in the matter certified by the Registrar ; and the Registrar shall upon the request of any person desiring to appeal furnish to any such person a certified copy of all proceedings, reports, orders and papers upon which the committee or council have acted in making the report or order complained of.

58 No action shall lie against the Council or Committee for any proceedings taken or judgments given or enforced under the disciplinary clauses of this Act.

#### **Rights of Medical Practitioners**

59. Every person registered under the provisions of this Act and not under suspension shall be entitled to practise Medicine, Surgery and Midwifery or any of them in the Province of and to demand and recover in any court in the said province, with full costs of suit, reasonable charges for professional aid, advice and visits, and the cost of any medicine or surgical appliances rendered or supplied by him to his patients.

60 No duly registered member of the College of Physicians and Surgeons of the Province of shall be liable to any action for negligence or malpractice by reason of professional services requested or rendered unless such action be commenced within *Six months* from the date when in the matter complained of such professional services terminated.

61 No person shall be entitled to recover in any court of law for any medical or surgical advice or for attendance or for the performance of any operation or for any medicine which he may have prescribed unless he is registered under this Act and not under suspension.

62. No person shall be appointed as medical officer, physician or surgeon in any branch of the public service of the province of or in any hospital or other charitable institution unless he is registered under the provisions of this Act and not under suspension.



2 In the case of any person whose name does not appear in such copy, a certified copy under the hand of the Registrar of the entry of the name of such person on the register shall be evidence that such person is registered under this Act.

### **Evidence of Registration**

67. In all cases where proof of registration under this Act is required to be made, the production of the printed or other copy of the register, or of any extract therefrom certified by the Registrar, shall be sufficient evidence of registration in lieu of the production of the original register, and any certificate purporting to be signed by any person in his capacity as Registrar of the Council, under this Act, shall be prima facie evidence that such person is such Registrar without any proof of his signature or of his being in fact such Registrar.

(a) But in any case where proof of registration or non-suspension is required to validate a witness's evidence, and a copy of the register, or addenda thereto, or of any extract therefrom certified by the Registrar, or the production of the original register, is not available without prejudicial delay to the cases or the parties interested, then and in such case the evidence of the person under oath, claiming to be registered under this Act and not under suspension, that he is so registered and not under suspension shall be proof of same.

### **Offences. Penalties and Prosecutions.**

68. Any person entitled to register under this Act but who neglects or omits to be so registered shall not be entitled to any of the rights or privileges conferred by registration so long as such omission or neglect continues and he shall be liable to all the penalties imposed by this Act or any other act in force against unqualified or unregistered practitioners.

63. No certificate required by any Act in force, or that may hereafter be passed from any physician or surgeon or medical practitioner, shall be valid unless the person signing the same is registered under this Act and not under suspension.

64. All persons registered under this Act, not under suspension, shall be exempt from serving as jurors.

### **Interpretation**

65. The words "legally qualified medical practitioners" or "duly qualified medical practitioners," or any other words implying legal recognition of any person as a medical practitioner or member of the medical profession, when used in any Act or Law shall in so far as such Act or Law applies to the province of be construed to mean a person registered under this act and not under suspension.

### **Publication and Medical Register**

66. The Registrar shall from time to time under the direction of the Council cause to be printed and published a correct register of the names in respect of alphabetical order, according to surnames, with the residences as in form B In the schedule to this Act or to the like effect, together with the medical titles, diplomas and qualifications conferred by any college or body, of all persons appearing on the register as existing on the day of publication, and such register shall be called "The Alberta Medical Register, and a copy of the register for the time being purporting to be so printed and published as aforesaid shall be prima facie evidence in all courts in the province of Alberta and before all Justices of the Peace and all others, that the persons therein specified are registered according to the provisions of this Act and subject to the provisions of sub-section 2 of this section, the absence of the name of any person from such copy shall be prima facie evidence that such person is not registered according to the provisions of this Act.

69 No unregistered person or any person under suspension under this Act shall practise medicine, surgery or midwifery for hire, gain or hope of reward, and if any person not registered or under suspension as aforesaid pursuant to this Act for hire, gain or hope of reward practices or professes to practise or advertises to give advice in medicine, surgery or midwifery, or who shall furnish medicine or treat any disease or ailment by medicine, drugs or any form of treatment, influence or appliance shall be guilty of an offence and upon summary conviction thereof be liable to a penalty not exceeding one hundred dollars.

70. Any person who wilfully or falsely pretends to be a physician, doctor of medicine, surgeon, or general practitioner, or assumes any title, addition, or description other than he actually possesses and is legally entitled to under this Act, shall be liable on conviction thereof, before a Justice of the Peace, to a penalty not exceeding fifty dollars.

71. Any person not registered pursuant to this Act, who takes or uses any name, title, addition, or description, implying or calculated to lead people to infer that he is registered under this Act, or that he is recognised by law as a physician, surgeon, or a licentiate in medicine, surgery, or midwifery, shall be liable upon summary conviction to pay any penalty not exceeding one hundred dollars nor less than twenty-five dollars.

This spece is left for any further resolutions against faith cures, isms and paths of all kinds if the professions think well to insert any.

72. Any prosecution under this Act may be brought and heard before a Justice of the Peace. In case the penalty and costs awarded are not upon conviction forthwith paid the Justice may commit the offender to the common jail; there to be imprisoned for any term not exceeding one month unless the penalty and costs are sooner paid, and for a second offence a term not exceeding two months, and for a third offence a term of three months or longer if the Justice thinks advisable.

. 73. In any prosecution under this Act the burden of proof of registration or non suspension shall be upon the person charged.

74. Every prosecution under this ordinance shall be commenced within six months from the date of the alleged offence.

75. The Council by an order signed by the President under the seal of the council may stay proceedings in any prosecution under this Act where it is deemed expedient.

76 All fines and penalties imposed under any of the provisions of this Act and all monies to be received or levied thereunder shall after receipt thereof by the person authorised to receive the same, be forthwith paid by such person to the Treasurer of the College for the uses of the College.

#### **Returns.**

77 The Registrar, whenever required by the Lieutenant-Governor, shall transmit to the Territorial Secretary a certified return, under the seal of the Council, setting forth all such information and particulars relating to the College as may from time to time be required or asked for.