

1975 Bill 4

Fourth Session, 17th Legislature, 24 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 4

THE MEDICAL PROFESSION ACT, 1975

THE MINISTER OF HEALTH AND SOCIAL DEVELOPMENT

First Reading

Second Reading

Third Reading

BILL 4

1975

THE MEDICAL PROFESSION ACT, 1975

(Assented to _____, 1975)

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

1. In this Act,

- (a) "College" means the College of Physicians and Surgeons of the Province of Alberta;
- (b) "council" means the council of the College;
- (c) "district" means a medical electoral district established pursuant to this Act;
- (d) "medical" includes surgical and obstetrical;
- (e) "medicine" includes surgery and obstetrics but does not include osteopathy or veterinary surgery or veterinary medicine;
- (f) "Minister" means the Minister of Health and Social Development;
- (g) "professional medical assistant" means a person registered in the Professional Medical Assistant Register;
- (h) "register" means the Alberta Medical Register mentioned in section 18;
- (i) "registered practitioner" means a person registered in the Alberta Medical Register or who is temporarily registered under section 28;
- (j) "registrar" means the registrar of the College appointed under section 11;
- (k) "university" means a university that has a medical or osteopathic department in connection therewith, and has the power to grant medical or osteopathic degrees.

2. The College of Physicians and Surgeons of the Province of Alberta heretofore constituted and the registered members thereof are hereby continued as a body corporate under the same name with power to acquire, hold and dispose of real and personal property for the purpose of the College.

Explanatory Notes

General. This Bill will replace the present Medical Profession Act, enacted originally in 1906 with a new Act representing a major updating of the provisions.

1. Definitions.

2. College of Physicians and Surgeons continued as a corporation.

PART 1

THE COUNCIL

3. (1) There shall be a council of the College consisting of not more than 25 members elected or appointed in the manner provided in this Act.

(2) The council shall provide from time to time to the members of the College direction and regulation of the practice of medicine and osteopathy and, subject to the by-laws, shall control and direct registration, licensing and discipline of the members of the College.

4. (1) The persons entitled to vote at elections of members of the council are the persons who are registered practitioners in good standing at the time of the election.

(2) The registrar shall, at least two months before the date on which the election is to be held, prepare an alphabetical list of the registered practitioners showing the district in which each resides and is entitled to vote.

5. No person is eligible to be elected a member of the council who is not entitled to vote at elections of members of the council.

6. (1) The council may make by-laws governing elections of members to council and those by-laws may

- (a) provide the procedure for the nomination of candidates;
- (b) provide for the division of the Province into medical electoral districts and prescribe the number of council members to be elected from each medical electoral district;
- (c) provide for the appointment or designation of presiding officers for the election;
- (d) prescribe the forms to be used;
- (e) prescribe the procedure to be used for the holding of the elections and for determining the persons elected as members of the council;
- (f) prescribe the term of office of members of council.

(2) An election of members to the council shall be conducted with the use of secret ballots.

7. The ballots used at an election shall not be destroyed until after all petitions under section 8 in respect of the elections have been decided but shall be retained until then by the registrar, together with all other papers in connection with the election.

3. Council of College.

4. Voters.

5. Persons eligible for election to council.

6. By-laws re elections.

7. Destruction of ballots.

8. (1) A registered practitioner may petition the council against the election of a member by filing the petition with the registrar within 15 days after the election.

(2) The petition shall contain a statement of grounds on which the election is disputed.

(3) A copy of the petition shall be served upon the member whose election is disputed.

(4) Where a petition is filed concerning the election of a member to the council, the council shall hold an inquiry and ratify the election of the member or, if the election is found to be illegal, order a new election.

9. (1) The registrar

(a) in case of failure in an election to elect the required number of duly qualified members of the council, or

(b) in case of a vacancy occurring from the death or resignation of a member of the council or from any other cause,

shall hold a new election as soon as possible for the purpose of filling the vacancy or vacancies.

(2) Where a new election is held under subsection (1), the election shall be conducted in the same manner as an election of the full council and the term of office for the vacated council position shall be the unexpired term remaining in that position.

(3) Notwithstanding subsection (1), if a vacancy occurs for any reason within six months before the date of an election of members to the council, the council shall appoint a registered practitioner resident in that medical electoral district in which the vacancy occurred to be a member of the council for the unexpired portion of the term.

10. In accordance with the by-laws the elected members of the council shall appoint an additional five members to the council consisting of

(a) two registered practitioners, one of whom shall be nominated by the Faculty of Medicine of The University of Alberta and the other by the Faculty of Medicine of The University of Calgary, and

(b) three persons who are not registered practitioners, appointed from the general public,

all of whom shall be full voting members of the council.

11. (1) The council shall elect annually from its members a president, a vice-president and such other officers as it considers necessary.

8. Petition against election.

9. New election.

10. Appointed members of the council.

11. Election and appointment of officers.

(2) The council shall appoint a registrar, who need not be a member of the council or the College, at such salary or other remuneration and for such term of office as the council may decide.

(3) The council may appoint a deputy registrar and one or more assistant registrars, who need not be members of the council or the College, at such salary or other remuneration and for such term of office as the council may determine to assist the registrar and, in the event of his absence or inability to act, to exercise and perform all powers and duties of the registrar.

12. (1) There shall be an executive committee of the council which shall consist of the president, the vice-president and one other member of the council to be appointed annually by the council.

(2) The executive committee shall meet at the call of the registrar and shall deal with

- (a) all matters that are delegated to it by the council,
- (b) all matters that require attention between meetings of the council, and
- (c) the duties assigned to the executive committee by this Act.

(3) Two members of the executive committee constitute a quorum.

(4) The executive committee has no power to alter, repeal or suspend any by-law of the council.

13. The council may appoint annually such committees from among members of the council or the College as the council considers necessary to assist it in carrying out its duties under this Act.

14. (1) The council may make by-laws with regard to the times and places of meetings of the council and the mode of calling the meetings.

(2) In the absence of any by-law governing the calling of meetings of the council, the president, or in the event of his absence or a vacancy in the office, the vice-president or the registrar, may by a circular letter to be mailed to each member, call a meeting of the council at such time and place as to him seems fit.

15. (1) If the president is absent from a meeting, the vice-president, or in his absence some other member to be chosen from the members present, shall preside at that meeting.

12. Executive committee.

13. Appointment of committees.

14. By-laws re meetings.

15. Conduct of meetings.

(2) A quorum of the council may be fixed by by-law but in no case shall the quorum be less than half the number of council members.

(3) The member presiding at a meeting of the council has, in the event of an equal number of votes being given for and against any resolution, a second or casting vote in addition to the vote to which he is entitled as a member of the council.

(4) A resolution signed by not less than 75 per cent of the members of the council has the same force as a resolution duly passed at a regularly convened meeting of the council.

(5) The signatures of the members to the resolution may be on one or more sheets of paper.

16. 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 by-law or resolution passed by the council.

17. (1) Subject to the provisions of this or any other Act or of the by-laws, all matters coming before the council in respect of any individual member of the College or of any individual patient or other person shall be treated by the members of the council as private and confidential information and such information shall not be published, released or disclosed in any manner that might be detrimental to the personal interests, reputation or privacy of the member, patient or other person without his consent.

(2) Any person who knowingly publishes, releases or discloses such information is guilty of an offence and liable on summary conviction to a fine of not more than \$500 and in default of payment to imprisonment for a term not exceeding 30 days.

16. Fees for attendance.

17. Confidentiality.

PART 2

REGISTRATION

18. (1) The registrar shall keep a register to be known as the "Alberta Medical Register", which shall be divided into two parts, namely,

- (a) Part 1, which shall contain the name of every person authorized to practise as a medical practitioner under this Act, and
- (b) Part 2, which shall contain the name of every person authorized to practise as a practitioner of osteopathy under this Act.

(2) Only those persons whose names are inscribed in the register and who are not under suspension by the council are entitled to practise as hereinafter provided.

(3) The register shall, during the business hours of the College, be open and subject to inspection by any person.

(4) Part 1 of the register may contain a separate section for the registration of non-resident members.

19. The registrar shall

- (a) maintain the register correctly in accordance with the provisions of this Act and the by-laws,
- (b) make all necessary alterations in the addresses or qualifications of the persons registered under this Act, and
- (c) perform such other duties as may be imposed on him by the council.

20. (1) The registrar shall enter in the appropriate part of the register the name and address of every person who

- (a) proves to the satisfaction of the registrar that he is qualified for registration under section 21 or produces a certificate of qualification issued under section 22,
- (b) satisfies the registrar that he is of good character and reputation and that his name has not been struck off from the register of any college of physicians and surgeons and that he is not and has not been suspended by any college of physicians and surgeons, or by any council or similar body in Canada or elsewhere, and

18. Alberta Medical Register.

19. Duties of registrar.

20. Entries in register.

- (c) pays to the registrar the prescribed registration fee and the annual fee for the year in which he becomes registered.
- (2) If the registrar is not satisfied with respect to any of the matters referred to in subsection (1), clauses (a) and (b), he shall refer the application to the council and
- (a) if the council is satisfied with respect to those matters, it shall direct the registrar to register the person, or
 - (b) if the council is not satisfied with respect to any of those matters, it shall direct the registrar not to register the person and shall give the person written notice thereof, giving the reasons therefor.

21. An applicant for registration who has not previously been registered in Part 1 of the Alberta Medical Register is qualified for registration if

- (a) he holds a degree in medicine from a university in Alberta and has satisfactorily served a period of postdoctoral training prescribed by the by-laws, or
- (b) he holds a certificate of registration from the Medical Council of Canada and has served a period of training following qualification in medicine prescribed by the by-laws.

22. (1) The Universities Co-ordinating Council shall examine the fitness to practise and qualifications of every applicant for the practice of osteopathy and if satisfied that the applicant has proven such fitness to practise and qualifications, it shall issue to the applicant a certificate of qualification.

(2) Before issuing a certificate of qualification to an applicant, the Universities Co-ordinating Council may require him to pass such examinations or pursue such further studies and training, or both, as the Universities Co-ordinating Council considers necessary for the granting of a certificate of qualification.

23. (1) The Council may establish and maintain a register to be known as the "Special Register".

(2) The persons registered in the Special Register are entitled to practise medicine, surgery and midwifery and shall be deemed to be registered practitioners only for the period, in the manner, to the extent, and subject to the conditions, limitations and restrictions set out in the by-laws applicable to such persons.

(3) Upon any person so registered ceasing to comply, either as a result of circumstances or default, with the

21. Qualification for registration.

22. Conduct of examinations for practice of osteopathy.

23. Special Register.

terms of the by-laws applicable, the registrar shall remove the name of such person from the Special Register.

24. (1) The council may establish and maintain a register to be known as the "Courtesy Register".

(2) The registrar may register in the Courtesy Register any person who

(a) is the holder of a degree in medicine and is entitled to practise as a physician or surgeon in a jurisdiction outside Alberta, and

(b) desires registration solely for the purpose of

(i) presenting a graduate or undergraduate training course, or

(ii) conducting or engaging in a clinical presentation or research program or an educational treatment program of limited duration.

(3) The registrar

(a) shall, in registering a person in the Courtesy Register, show the purpose for which that person is registered and the period of duration of that person's registration, and

(b) may from time to time, on application, extend the period of duration of that person's registration and amend the Courtesy Register accordingly.

(4) Notwithstanding subsection (3), the registrar shall cancel the registration of any person in the Courtesy Register when directed to do so by the council.

25. (1) The council may establish and maintain a register to be known as the "Educational Register".

(2) The council may register in the Educational Register any person

(a) who is serving a period of postdoctoral training required by a university and approved by the council or the period of training required by the Medical Council of Canada, or

(b) who desires registration solely for the purpose of undertaking post-graduate training and who in the opinion of the council should be granted such registration, or

(c) who is a senior undergraduate desiring registration solely for the purpose of undertaking training experience of limited duration in Alberta, or

(d) who is an undergraduate enrolled in a Faculty of Medicine in Alberta and is classified by such Faculty as a student intern, or

24. Courtesy Register.

25. Educational Register.

- (e) who is taking a period of training in Alberta required by the council with respect to obtaining or maintaining registration as a medical practitioner.

26. (1) The council may establish and maintain a register to be known as the "Professional Medical Assistant Register".

(2) The Professional Medical Assistant Register may be divided into two parts, namely,

- (a) Part 1, which shall contain the name of every person who desires registration and who has completed a training program at a university or at a post-secondary institution in Alberta offering a training program approved by the Minister of Advanced Education and has received certification from that university or institution as being competent and qualified to act as a professional medical assistant, and
- (b) Part 2, which shall contain the name of every person who desires registration and who has obtained certification as being competent and qualified to act as a professional medical assistant from an institution outside Alberta approved by the council.

(3) Each part of the Professional Medical Assistant Register may contain categories of professional medical assistants according to which medical services the council has prescribed with respect to them pursuant to subsection (6), and the name of each person shall be entered in the appropriate category.

(4) The registrar shall enter in the appropriate part of the Professional Medical Assistant Register the name and address of every person who

- (a) proves to the satisfaction of the registrar that he is qualified for registration under subsection (2), and
- (b) satisfies the registrar that he is of good character and reputation and that he is not and has not been suspended by any college of physicians and surgeons or by any other regulatory body governing the provision of any medical services in Canada or elsewhere.

(5) If the registrar is not satisfied with respect to any of the matters referred to in subsection (4), he shall refer the application to the council, and

- (a) if the council is satisfied with respect to those matters it shall direct the registrar to register the person, or
- (b) if the council is not satisfied with respect to any of those matters, it shall direct the registrar not to register the person and shall give the person written notice thereof, giving the reasons therefor.

26. Professional Medical Assistant Register.

(6) The council shall, with respect to each person registered or to be registered in the Professional Medical Assistant Register, prescribe the medical services that may be provided by that person and that person may provide only those medical services so prescribed with respect to him.

(7) The council shall appoint a committee consisting of not less than two professional medical assistants and not less than three registered practitioners to advise the council on matters relating to the training, registration and discipline of and the provision of services by professional medical assistants.

27. Where the council is of the opinion that in the interest of the public a medical practitioner's registration should be limited or restricted in any way, the council may by order, at the time of registration, attach such conditions to his registration as it considers advisable, and may designate a hospital or hospitals in Alberta to provide at the council's request

- (a) training for an applicant for registration, or
- (b) assessment of and training for a registered practitioner for the purpose of maintaining the practitioner's registration.

28. Upon payment of such fee as the council may require, the council may grant to any person who is qualified for registration temporary registration for a period not exceeding 30 days in each calendar year.

29. (1) A person who, by order of the council,

- (a) is refused registration pursuant to section 20, subsection (2) or section 26, subsection (5), or
- (b) has limitations or conditions imposed on his registration pursuant to section 27,

may apply for a review of the council's decision by an application in writing to the Minister made within 30 days after the date of the order of the council.

(2) For the purposes of subsection (1), clause (a), the registrar has neither registered or refused to register a person within 60 days of that person having applied for registration, the application shall be deemed to have been refused.

(3) Upon receipt of an application under subsection (1), the Minister shall appoint a review panel of three persons, none of whom were involved in making the decision appealed from, to review the council's decision.

(4) Where the applicant resides out of Alberta, a review panel may, before undertaking the review, require the applicant to deposit with the Minister a reasonable amount of

27. Conditions of registration.

28. Temporary registration.

29. Review panel.

money as security for payment of the costs of the review by the applicant in the event of an order to that effect.

(5) Testimony may be adduced before a review panel in such manner as the panel considers proper and the panel is not bound by the rules of law concerning evidence applicable to judicial proceedings.

(6) *The Administrative Procedures Act* applies to proceedings of the review panel.

(7) The review panel may confirm, reverse or vary the council's decision and the decision of the review panel is final and binding upon the applicant and the council.

(8) Upon the review the panel may make any order as to the costs of the review as it considers just and may apply any money deposited pursuant to subsection (4) in satisfaction thereof.

(9) At the conclusion of the review the Minister shall refund to the applicant the amount of his deposit less any costs assessed under subsection (7).

(10) Any person in whose favour an order for costs is made under subsection (8) may recover the amount of such costs by action.

30. (1) Each registered practitioner shall pay an annual fee in an amount to be determined by by-law of the council to the registrar, or to any person authorized by the registrar to accept payment thereof.

(2) A registered practitioner who fails to pay the annual fee on or before the first day of January in each year shall, as of that date, stand suspended as a registered practitioner.

(3) The council may by resolution waive any annual fee or any portion of an annual fee due to the College by a registered practitioner.

(4) A registered practitioner suspended under subsection (2) shall be reinstated in good standing in the register in respect of that suspension upon payment to the registrar of the annual fee for that year.

(5) A registered practitioner may make written application to the registrar to have his name removed from the register and the registrar shall remove the name accordingly.

31. The council may make by-laws for

- (a) the conduct of the affairs of the council;
- (b) the promotion of medical knowledge;
- (c) the disposition of the funds of the College;

30. Annual fee

31. By-laws.

- (d) the discharge of the duties and obligations imposed upon the council or any of its committees under this Act;
- (e) the regulation of the practice of medicine and the governing of the affairs of the profession;
- (f) the setting of registration fees for any type of registration under this Act, which shall not exceed \$200;
- (g) the fixing of annual fees.

32. (1) The council may make by-laws governing

- (a) the manner of proof as to matters required to be proven by an applicant for registration or by a registered practitioner;
- (b) the conduct of any hearing or investigation authorized by this Act;
- (c) the educational and training requirements of an applicant for registration, or for maintaining a registered practitioner's registration;
- (d) the persons or classes of persons who may be registered in the Special Register, the qualifications to be required of such persons, the fees payable by those so registered, and the conditions, limitations and restrictions applicable to such persons;
- (e) registration in the Courtesy Register;
- (f) registration in the Educational Register;
- (g) the provision of approved services by professional medical assistants.

(2) A by-law passed under subsection (1) does not come into force until it has been approved by the Lieutenant Governor in Council.

33. (1) The council may make by-laws

- (a) establishing a special fund into which shall be paid
 - (i) such portion of the moneys of the College as may be designated from time to time by the council, or
 - (ii) such portion of the revenues of the College as may be designated from time to time by the council,
- (b) governing the application of the special fund to the relief of aged, infirm or disabled members of the College and the dependants of deceased members, and
- (c) governing the administration of the special fund.

32. By-laws.

33. Special Fund.

(2) Where the council has created a special fund under this section, the council in its discretion may at any time discontinue the special fund in whole or in part and may upon discontinuing the special fund transfer the balance thereof to the general funds of the College.

PART 3
DISCIPLINE

34. (1) For the purposes of this Act,

- (a) unbecoming conduct, whether in a professional capacity or otherwise, or
- (b) the determination as to whether a registered practitioner has displayed a lack of skill or judgment in the practice of medicine or osteopathy or is incapable or unfit to practise medicine or osteopathy,

is a question of fact for the sole and final determination of the investigating committee, the council or the Appellate Division of the Supreme Court of Alberta.

(2) Any matter, conduct or thing that in the judgment of the investigating committee, the council or the Appellate Division of the Supreme Court of Alberta, is such as to be inimical to the best interests of the public or the profession, whether or not such act or conduct is disgraceful or dishonourable, is unbecoming conduct on the part of a registered practitioner.

35. The provisions of this Part relating to registered practitioners apply to persons registered in the Courtesy Register, the Educational Register, the Special Register and the Professional Medical Assistant Register.

36. (1) The council shall appoint annually from among its members an investigation chairman.

(2) The investigation chairman shall review any matter brought to his attention by the registrar or in any other manner, whether a complaint is made or not, where a registered practitioner

- (a) either before or after he is registered has been convicted of an offence punishable by more than one year's imprisonment, or
- (b) is alleged to be guilty of unbecoming or criminal conduct, whether in a professional capacity or otherwise, or
- (c) is alleged to be incapable or unfit to practise medicine or osteopathy or to be suffering from an ailment, either organic or mental, which might, if he continues to practise, constitute a danger to the public, or
- (d) is alleged to display a lack of skill or judgment in the practice of medicine or osteopathy.

(3) Upon completing his review the investigation chairman shall

- (a) direct that no further action be taken, or

34. Unbecoming conduct.

35. Application of Part.

36. Investigation chairman.

- (b) direct that a preliminary investigation be held by the registrar or his appointee into the matter, or
- (c) direct that the matter be dealt with by an investigating committee.

37. (1) Notwithstanding the provisions of any other Act,

- (a) the council, or
- (b) an investigating committee, or
- (c) upon the direction of the investigation chairman, a person conducting a preliminary investigation,

may require the registered practitioner concerned and any other registered practitioner or person to produce to him any books, records, papers and other documents or things in the registered practitioner's or person's possession or control and may require the attendance at the investigation of the registered practitioner concerned and any other registered practitioner or person.

(2) The College may summarily apply ex parte to a judge of the Supreme Court for an order directing the registered practitioner concerned or any other registered practitioner or person to produce to the council, an investigating committee or the person conducting a preliminary investigation any books, records, papers and other documents or things in his possession or under his control, where the registered practitioner or other person has failed to produce them when required under subsection (1) or where the judge is of the opinion that the issue of such an order is just and appropriate in the circumstances.

(3) A person making a preliminary investigation into a matter concerning the conduct or capability or fitness to practise medicine or osteopathy of a registered practitioner may investigate any other matter concerning the conduct or capability or fitness to practise medicine or osteopathy of the registered practitioner that arises in the course of the investigation.

38. (1) Upon the conclusion of a preliminary investigation, the investigation chairman upon receipt of the report shall either

- (a) direct that no further action be taken, or
- (b) direct that the matter be dealt with by a Complaints Committee composed of not less than three members of council which shall report to the investigation chairman for his decision at the conclusion of their deliberations, or
- (c) direct that the matter be dealt with by an investigating committee.

37. Evidence at a preliminary investigation.

38. Procedure after preliminary investigation.

(2) The Complaints Committee shall not hear any evidence but may review all documents and written submissions obtained during the preliminary investigation and at the conclusion of its deliberations the Complaints Committee shall make such recommendations to the investigation chairman as it considers appropriate.

39. The investigation chairman may, at his discretion, upon receipt of the recommendation of the Complaints Committee, direct the matter to be dealt with by an investigating committee or direct that no further action be taken.

40. (1) Where a matter regarding the conduct or capability or fitness to practise medicine of a registered practitioner is brought to the attention of the investigation chairman as a result of a complaint, the complainant shall be advised as to the ultimate disposition of his complaint, but not as to any punishment imposed and where the investigation chairman has directed pursuant to section 36, 38 or 39 that no further action be taken with respect to the complaint, the complainant may appeal his direction to the council which may make any direction regarding it that the investigation chairman could have made.

(2) Nothing in subsection (1) precludes any member of the council from acting as a member of an investigating committee or a Complaints Committee with respect to the complaint.

41. (1) The council or the executive committee shall from time to time, upon the request of the investigation chairman, appoint from among the members of the council an investigating committee consisting of not less than three members.

(2) Where the investigation chairman directs that a matter regarding the conduct or capability or fitness to practise medicine or osteopathy of a registered practitioner is to be dealt with by an investigating committee, he shall

- (a) direct the registrar to serve upon the registered practitioner a notice of the matter to be investigated containing reasonable particulars, and
- (b) direct the investigating committee to conduct an investigation into the matter.

(3) Proceedings before an investigating committee shall be held in private.

42. Where it appears that a former registered practitioner has been guilty of unbecoming conduct while he was a registered practitioner, an investigating committee hearing may be held with respect to his conduct at any time

39. Procedure after Complaints Committee report.

40. Complainant's right of appeal.

41. Proceedings before investigating committee.

42. Investigation of former members.

within one year from the date he ceased to be a registered practitioner in the same manner as if he were still a registered practitioner.

43. (1) Notwithstanding any other provision of this Part, the investigation chairman may, at his discretion, direct the registrar to suspend a registered practitioner pending an investigation by the investigating committee.

(2) Notice of a suspension under subsection (1) shall be served on the practitioner together with the notice to be served under section 48, subsection (1).

44. (1) The College and the registered practitioner who is subject to discipline proceedings under this Part may be represented by counsel.

(2) The council and the investigating committee may, in their discretion, retain counsel to be present at the hearing and to independently advise them during the course of the hearing.

45. (1) The investigating committee shall investigate the facts relevant to the conduct or capability to practise of the registered practitioner concerned.

(2) The investigating committee may also investigate any other matter concerning the conduct or capability or fitness to practise medicine of the registered practitioner that arises in the course of the investigation, but in that event the committee shall declare its intention to investigate and report on the new matter and shall permit the registered practitioner sufficient opportunity to prepare his answer to the new matter.

46. A member of a committee appointed from the council pursuant to this Part may continue to act as such for the purpose of completing and reporting upon any investigation or proceeding begun while he was a member of the council notwithstanding that he is no longer a member of the council.

47. Meetings of an investigating committee or of council, when held for the purpose of taking evidence or otherwise ascertaining the facts, shall be held at any convenient place decided upon by the committee or the council, as the case may be.

48. (1) At least two weeks before the meeting of an investigating committee held for the purpose of taking evi-

43. Interim suspension.

44. Right to counsel.

45. Investigating committee.

46. Continuation as committee member.

47. Place of meetings.

48. Notice of committee meetings.

dence or otherwise ascertaining the facts, a notice shall be served upon the person whose conduct or capability or fitness is the subject of inquiry

- (a) containing reasonable particulars of the matter to be investigated, and
- (b) specifying the time and place of the meeting.

(2) Testimony may be adduced before an investigating committee in any manner the committee considers proper and the committee is not bound by the rules of law concerning evidence applicable to judicial proceedings, but no registered practitioner's name shall be struck off the register on affidavit evidence alone.

(3) Any member of the investigating committee is empowered to administer an oath to any witness who is to give evidence before it.

49. (1) The registered practitioner whose conduct or capability or fitness is being investigated is a compellable witness in any proceedings under this Part.

(2) A witness may be examined on oath on all matters relevant to the proceeding and shall not be excused from answering any question on the ground that the answer

- (a) might tend to criminate him, or
- (b) might subject him to punishment under this Act, or
- (c) might tend to establish his liability
 - (i) to a civil proceeding at the instance of the Crown or of any person, or
 - (ii) to prosecution under any statute,

but the answer so given, if it is such as tends to criminate him or to establish his liability to a civil proceeding, shall not be used or received against him in any civil proceedings or in any proceedings under any other Act of Alberta.

(3) A notice to enforce

- (a) the attendance of a witness, and
- (b) the production of books, papers and other documents,

before an investigating committee may be issued by the registrar, deputy registrar or any assistant registrar of the College under the seal of the College stating the time and place at which the witness is to attend and the documents, if any, he is required to produce.

(4) The registrar shall, without charge, upon the written request of the registered practitioner whose conduct or capability or fitness is being investigated, his solicitor or agent, issue and deliver to the registered practitioner all notices which the registered practitioner may require for enforcing the attendance of witnesses and the production of documents.

49. Witnesses and documents.

(5) A witness, other than the registered practitioner whose conduct or capability or fitness is being investigated, who is served with a notice to attend or to produce documents, is entitled to demand and to be paid the usual fees payable to witnesses in an action in the Trial Division of the Supreme Court of Alberta.

(6) A witness

(a) who fails

(i) to attend before an investigating committee, or

(ii) to produce any books, records, papers or other documents or things, in obedience to a notice issued under this section,

or

(b) who fails in any other way to comply with a notice issued under this section, or

(c) who refuses to be sworn, or to answer any question allowed by the investigating committee,

is liable to attachment upon application to a judge of the Supreme Court of Alberta.

(7) For the purpose of obtaining the testimony of a witness who is out of Alberta, a judge of the Supreme Court upon an application ex parte by the College may direct the issuing of a commission for the obtaining of the evidence of the witness and the commission shall be issued and evidence taken pursuant to the Alberta Rules of Court which apply with all necessary modifications.

50. (1) If the registered practitioner whose conduct or capability or fitness is the subject of an investigation does not attend the inquiry, the investigating committee may, upon proof of personal service of the notice to attend, proceed with the subject matter of the inquiry in his absence and make its report under section 53 without further notice to such person.

(2) The non-attendance or refusal to testify by a registered practitioner whose conduct or capability or fitness is the subject of the inquiry may be held to be unbecoming conduct.

51. (1) If the investigating committee finds that the registered practitioner is guilty of unbecoming conduct or is incapable or unfit to practise medicine or osteopathy, the committee may recommend to council that

(a) the name of the registered practitioner be struck off the register, or

(b) the registered practitioner be suspended for a stated period of time not exceeding three years, or

(c) the registered practitioner be reprimanded, or

50. Failure to attend to give evidence.

51. Decision of investigating committee.

- (d) any conditions or restrictions that the committee in its discretion considers necessary be imposed on the registered practitioner's registration.
- (2) In addition to a recommendation under subsection (1), the investigating committee may recommend
 - (a) that the registered practitioner pay, for each allegation proved against him, a fine of not more than \$1,000 to the College, within the time fixed by the committee, or
 - (b) that the registered practitioner pay the costs of the investigation in an amount and within the time fixed by the investigating committee, or
 - (c) that the registered practitioner be suspended in default of paying any fine or costs ordered to be paid until such time as the fine or costs are paid.

52. (1) Costs which may be levied against a registered practitioner by the council under section 51, subsection (2) or section 56, subsection (2) may include all or any portion of the expenses incurred by the council, including legal representation of the council or the investigating committee in the investigation of the facts relating to the registered practitioner.

(2) Costs as levied by the council are a debt due to the College and are recoverable by action.

53. (1) The investigating committee shall give a report containing its findings and recommendations and the reasons for its recommendations to the investigation chairman and the registrar.

(2) The registrar shall obtain a copy of the evidence adduced before the committee with copies of exhibits attached and such documents shall be known as "the record".

(3) At the conclusion of the investigating committee hearing, the investigating committee may suspend the registered practitioner whose conduct is being investigated until such time as its report and the record of the hearing are considered at a meeting of council.

54. (1) On receiving a copy of the report of the investigating committee and the record of the proceedings before it, the registrar shall

- (a) furnish the registered practitioner concerned or his counsel or agent with a copy of both the report and the record, inform him of the time and place at which they are to be considered by the council, and

52. Costs.

53. Report to council.

54. Procedure leading to hearing by council.

inform him that he may appear before the council at that time in person or by counsel or agent, and

- (b) furnish each member of council with a copy of the report and the record.

55. (1) The council shall consider the report and record and shall hear such representations as the registered practitioner or his counsel or agent wishes to make respecting the report and record and the council shall further hear representations of counsel representing the committee which filed the report before the council.

(2) No member of the investigating committee, a Complaints Committee, if involved, or the investigation chairman shall take part in the deliberations of the council in regard to the report of the investigating committee.

(3) The council may

- (a) grant adjournments of the proceedings to, or reserve the determination of the matters before it for, a future meeting of the council, or
- (b) upon granting special leave therefor, receive further evidence in the same manner and subject to the same rules and with the same powers as are provided for in this Act with respect to hearings before an investigating committee, or
- (c) draw inferences of fact and make any determination or finding which, in its opinion, ought to have been made by the committee, or
- (d) order the matter to be referred back to the investigating committee for further consideration.

(4) The council shall, at or within a reasonable time after the conclusion of all proceedings before it, issue its decision.

56. (1) Where a registered practitioner is found by the council to be guilty of unbecoming conduct or to be incapable or unfit to practise medicine or osteopathy, the council may

- (a) order the name of the registered practitioner to be struck off the register, or
- (b) order that the registered practitioner be suspended for a period not exceeding three years, or
- (c) reprimand the registered practitioner, or
- (d) order that any conditions or restrictions that the council in its discretion considers necessary be imposed on the registered practitioner's registration.

55. Consideration of report by council.

56. Punishment of registered practitioner.

(2) The council may, in addition to an order under subsection (1), make all or any of the following orders:

- (a) that the registered practitioner pay, for each allegation proved against him, a fine of not more than \$1,000 to the College, within the time fixed by the order;
- (b) that the registered practitioner pay the costs of the investigation in an amount and within the time fixed by the council;
- (c) that the registered practitioner be suspended in default of paying any fine or costs ordered to be paid until such time as the fine or costs are paid.

(3) The council may at any time direct that the execution of an order under subsection (1) or (2) or any portion thereof be stayed upon such terms and conditions as the council in its discretion may impose, including imposition of restrictions on the registered practitioner's registration.

(4) Where the council has directed an order under subsection (1) or (2) or a portion thereof be stayed, the council may, after hearing representations in regard thereto, at any time

- (a) call the registered practitioner before it and vacate its direction granting a stay of the order or portion thereof, or
- (b) terminate its order under subsection (1) or (2).

(5) A registered practitioner in respect of whom an order has been stayed as provided in this section may continue to practise his profession subject to the conditions and restrictions, if any, imposed on him by the council.

(6) Where the council has ordered that the registered practitioner's name be struck off the register, the council may at any time order that the practitioner's name be reinstated on the register but no application for the reinstatement of a name to the register shall be considered until one year from the date when the name was struck off the register unless the applicant has complied to the satisfaction of the council with any conditions prescribed by the council.

57. (1) The council may, after a hearing, order the registrar to strike off the register the name of any person who is proven to the satisfaction of the council

- (a) to be improperly registered, or
- (b) to have procured registration by means of any false or fraudulent representation or declaration, either verbal or written.

57. Striking off name from register.

(2) The provisions of this Part relating to procedures for an investigating committee and appeal to the Appellate Division apply with all necessary modifications to a hearing held by the council pursuant to this section.

58. (1) A registered practitioner who is subject to an order of the council under this Part may, within 30 days of the date of the order, appeal to the Appellate Division of the Supreme Court of Alberta.

(2) The appeal shall be commenced by

- (a) filing a notice of appeal with the Registrar of the Court at Edmonton or Calgary, and
- (b) serving a copy of the notice of appeal upon the registrar of the College,

within 30 days of the date on which the order was made by the council.

(3) The registered practitioner may, after commencing the appeal and upon notice to the registrar of the College, apply to the council or to a judge of the Supreme Court for an order suspending the imposition of any punishment imposed by the court pending disposition of the appeal.

59. (1) The appeal shall be founded upon a copy of the report of the committee, a copy of the record, a copy of the findings and order, if any, of the council and a copy of the evidence, if any, received by the council, all of which shall be certified by the registrar.

(2) The registrar, on being paid the sum of \$25 together with any disbursements and expenses in connection therewith, shall on request furnish to the appellant or to his solicitor or agent the number of copies of the documents mentioned in subsection (1) so requested but not exceeding nine in any case.

60. The procedure in an appeal shall, with all necessary modifications, be the same as that provided in the Alberta Rules of Court for appeals from a judgment of a judge of the Supreme Court to the Appellate Division.

61. (1) The Court, upon hearing the appeal, may

- (a) make any other findings that in its opinion ought to have been made, or
- (b) quash or confirm the finding that the practitioner has been guilty of unbecoming conduct or is incapable or unfit to practise medicine or osteopathy, or
- (c) confirm or vary the punishment imposed or order a different punishment, or

58. Appeal.

59. Material in an appeal.

60. Procedure in appeal.

61. Court's powers on appeals.

(d) refer the matter back to the council for further consideration by it.

(2) The Court may make such award as to costs as it considers just in the circumstances.

62. (1) Where, pursuant to this Part,

(a) the name of a person is struck off the register, or

(b) a registered practitioner is under suspension,

he shall not practise medicine or osteopathy under this Act or be directly or indirectly associated in practice with any registered practitioner.

(2) No registered practitioner shall be associated in the practice of medicine or osteopathy directly or indirectly

(a) with a person whose name has been struck off the register or with a registered practitioner who is under suspension, or

(b) with any person who is not a registered practitioner or a professional medical assistant.

(3) Any person who contravenes subsection (1), or (2) is guilty of unbecoming conduct.

63. A registered practitioner who fails to comply with the conditions imposed by the council pursuant to section 27 is guilty of unbecoming conduct.

62. Practice prohibited.

63. Failure to comply with conditions of registration.

PART 4

OFFENCES

64. (1) Subject to the provisions of any Act entitling a person to practise any science, therapy or system of practice, any person is guilty of an offence who

- (a) not being a registered practitioner or professional medical assistant, either directly or indirectly practises or professes to practise medicine or osteopathy, or
- (b) being registered in respect of one class of practice, practises in respect of a class in respect of which he is not registered, or
- (c) being a professional medical assistant, provides any medical service other than one the provision of which by him has been approved by the council.

(2) This section does not apply to a student enrolled at a university or post-secondary institution in Alberta in a course leading to certification as a professional medical assistant while engaged in practical training in connection therewith.

(3) Notwithstanding subsection (1), any person registered in the Educational Register may practise medicine, surgery and midwifery for the purpose of training but only in a hospital or with an ambulance service approved by the hospital or in any other facility utilized for the training of persons registered under section 25 but the hospital, ambulance service or other facility must first be approved by the council.

(4) With respect to the practice of midwifery, subsection (1) applies only to the territory included within the limits of a city, town or village having a resident registered practitioner in midwifery therein.

65. A person shall be held to practise within the meaning of section 64 who

- (a) by advertisement, sign or statement of any kind alleges ability or willingness to diagnose or treat any human disease, illness, deformity, defect or injury, or
- (b) advertises or claims ability or willingness to prescribe or administer any drug, medicine or treatment, or
- (c) either
 - (i) prescribes or administers any treatment, or
 - (ii) performs any operation or manipulation, or
 - (iii) applies any apparatus or appliance, for the prevention, alleviation or cure of any human disease, ailment, deformity, defect or injury, or

64. Penalty for practice by non-registered persons.

65. Persons deemed to practise.

- (d) acts as the agent, assistant or associate of any person, firm or corporation in the practice of medicine as set out in clauses (a), (b) and (c).

66. (1) Nothing in this Act prevents a person who is not registered in any register under this Act from giving necessary medical or surgical aid in times of urgent need if such aid is given without hire, gain or hope of reward.

(2) Nothing in this Act applies to or affects the practice of any profession or calling by any person practising the same under authority of a general or special Act of the Legislature.

67. (1) No registered practitioner shall advertise himself or hold himself out to the public as a specialist or as being specially qualified in any branch of any class or system of practice without having received from the registrar a certificate indicating his compliance with all conditions precedent to qualifications or fitness to practise that may be prescribed by the council.

(2) The council may make such by-laws prescribing the conditions precedent to qualification or fitness for certification as a specialist as the council considers advisable.

(3) A person who contravenes subsection (1) is guilty of an offence.

68. (1) A person guilty of an offence under section 64, subsection (1) or under section 67 is liable on summary conviction

- (a) for a first offence to a fine of not more than \$1,000 and in default of payment to imprisonment for a term of not more than three months, and
- (b) for a second or subsequent offence to
 - (i) a fine of not less than \$500 nor more than \$2,000, and in default of payment to imprisonment for a term of not more than six months, or
 - (ii) imprisonment for a term of not more than six months without the option of a fine, or
 - (iii) both a fine and imprisonment.

(2) A contravention of section 64, subsection (1) or section 67 is unbecoming conduct.

69. A person

- (a) who wilfully or falsely pretends to be a physician, doctor of medicine, medical surgeon or general practitioner, or

66. Exceptions.

67. Specialist recognition.

68. Fines.

69. Penalty for misrepresentation.

- (b) who, not being registered in Part 1 of the Alberta Medical Register or in the Courtesy Register or Educational Register, appends to his name or holds himself out to the public by any title or description of services containing the word "physician", either alone or in combination with any other word or words, or
 - (c) who assumes any title, addition or description implying that he is a physician, doctor of medicine, medical surgeon or general practitioner, other than one he actually possesses and is legally entitled to,
- is guilty of an offence and liable on summary conviction to a fine not exceeding \$500.

70. A person not registered under this Act who takes or uses any name, title, addition or description implying or calculated to lead people to infer

- (a) that he is registered under this Act, or
 - (b) that he is legally entitled to practise medicine or osteopathy when he is not a registered practitioner,
- is guilty of an offence and liable on summary conviction to a fine of not less than \$50 and not more than \$500.

71. (1) No person may offer or hold himself out as offering a training program leading to certification as a professional medical assistant unless that training program has been approved by the Minister of Advanced Education.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding \$1,000.

72. A prosecution under this Part may be commenced at any time within 12 months after the commission of the offence, but not thereafter.

70. Penalty for using name, etc.

71. Offering unapproved course.

72. Commencement of prosecution.

PART 5
GENERAL

73. (1) The registrar shall from time to time under the direction of the council

- (a) cause to be printed and published a correct register of registered practitioners in alphabetical order according to surnames, and
- (b) issue yearly thereafter between the issues of such register, if the register is not published yearly, an addendum to the register containing particulars of the persons registered under this Act since the day of the last publication of the register.

(2) A copy of the register for the time being purported to be so printed and published is admissible in evidence as prima facie proof that the persons therein specified are registered according to the provisions of this Act, and subject to the provisions of subsection (3), the absence of the name of a person from the copy and from the last addendum is admissible in evidence as prima facie proof that such person is not registered according to the provisions of this Act.

(3) If the name of a person does not appear in such copy of the register or in the last addendum, a certified copy under the hand of the registrar of the entry of the name of such person on the register or addendum is admissible in evidence as prima facie proof that such person is registered under this Act.

74. (1) Where proof of registration under this Act is required

- (a) a printed copy of the register, or
- (b) an extract from or addendum to the register certified by the registrar,

is admissible in evidence in lieu of the original register.

(2) A certificate purporting to be signed by a person in his capacity as registrar and bearing the seal of the College is admissible in evidence without proof of the signature of the registrar or of his appointment.

(3) In any case where

- (a) proof that a person is registered under this Act and that he is not under suspension is required to validate a witness's evidence, and
- (b) a copy of the register or of an addendum thereto or extract therefrom 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,

73. Medical register.

74. Evidence of registration.

the evidence of the person under oath claiming that he is a registered practitioner and that he is not under suspension shall be admitted in evidence as prima facie proof of those facts.

75. (1) A registered practitioner whose registration under this Act is not under suspension is entitled to practise in Alberta in any class of practice in respect of which he is registered.

(2) No municipality has the power to require any registered practitioner to obtain a licence from the municipality to practise medicine or to carry on practice as a registered practitioner.

76. Unless an appeal is taken to the Appellate Division of the Supreme Court of Alberta under the provisions of this Act,

(a) if the name of a registered practitioner is struck off the register, or

(b) if a registered practitioner is suspended, or

(c) if a registered practitioner has conditions or restrictions imposed on his registration,

the council may give notice of the removal, suspension or imposition of conditions or restrictions to such persons, institutions or bodies as may appear desirable in the public interest.

77. (1) No person

(a) who is not registered in Part 1 of the Alberta Medical Register, or

(b) who, though registered, is under suspension,

shall be appointed as a medical officer in a hospital or in a charitable institution.

(2) A person may only be appointed as a medical officer in any hospital or charitable institution in the class of practice in respect of which he is registered.

78. (1) The council may appoint a committee to be known as the "Medical Facility Assessment Committee", which may investigate and inspect on behalf of the council the ownership, operation and financial arrangements pertaining thereto of all diagnostic and treatment facilities in which services are performed by registered practitioners in Alberta except those which are operated by the federal, provincial or municipal governments and those facilities that are approved hospitals under *The Alberta Hospitals Act*.

(2) The council may make by-laws as to all matters pertaining to the establishment and operation of such diagnos-

75. Right to practise.

76. Notice to the public.

77. Appointment in public service.

78. Assessment of medical facilities.

tic and treatment facilities to ensure that the procedures and standards of care set by the council for the protection of the public are carried out in all such diagnostic and treatment facilities other than those exempted under subsection (1).

(3) If the Medical Facility Assessment Committee reports to the council that a diagnostic and treatment facility does not appear to meet the required standards, the council shall consider the report and the provisions of section 54 apply with all necessary modifications.

(4) If the council determines that the diagnostic and treatment facility does not meet the required standards, the council may order that the diagnostic and treatment facility forthwith cease operation until the standards are met.

(5) It is unbecoming conduct for a medical practitioner to continue to see or treat patients in a diagnostic and treatment facility which does not have the approval of the council.

79. Nothing in this Act applies to or affects those who practise the religious tenets of their church without pretending a knowledge of medicine or osteopathy.

80. The council and any committee appointed pursuant to this Act may for the execution of their duties under this Act, engage at the expense of the College such legal or other assistance as it considers necessary.

81. The registrar, whenever required by the Minister, shall transmit to the Minister a certified return under the seal of the College, setting out such information and particulars relating to the College as may from time to time be required.

82. (1) *The figure “, 1975” is added after the words “The Medical Profession Act” wherever they appear in the following provisions:*

The Cancer Treatment and Prevention Act, section 12.1, subsection (5), clause (d);

The Chiropractic Profession Act, section 26;

The Companies Act, section 7, subsection (1.1), clause (a);

The Emergency Medical Aid Act, section 2, clause (a1);

The Alberta Health Care Insurance Act, section 2, clause (q), subclause (i) and clause (r), subclause (i) and section 25, subsection (6), clause (a);

The Human Tissue Gift Act, section 1, clause (b);

79. Religious beliefs.

80. Legal assistance.

81. Returns.

82. Consequential amendments.

The Licensing of Trades and Businesses Act, section 3, clause (b);

The Limitation of Actions Act, section 55, clause (a);

The Mental Health Act, 1972, section 1, clause (m);

The Pharmaceutical Association Act, section 61, subsection (1), clause (a);

The Workers' Compensation Act, section 58, subsection (1).

(2) The Emergency Medical Aid Act is amended

(a) as to section 2 by adding after clause (a1) the following clause:

(a2) "professional medical assistant" means a person who is registered as a professional medical assistant under The Medical Profession Act, 1975;

and

(b) as to section 3

(i) by adding after the words "a physician" in clause (a) the words ", professional medical assistant", and

(ii) by adding after the words "the physician," the words "professional medical assistant,".

(3) The Alberta Hospitals Act is amended

(a) as to section 28, clause (f) by striking out the words "licensed under The Medical Profession Act" and by substituting therefor the words "registered under The Medical Profession Act, 1975", and

(b) as to section 35, subsection (5.1), clause (d),

(i) by adding after the words "under The Medical Profession Act" the figure ", 1975", and

(ii) in subclause (ii) by striking out the words "section 62 of The Medical Profession Act" and by substituting therefor the words "section 49 of The Medical Profession Act, 1975".

(4) The Interpretation Act is amended as to section 21, subsection (1), by striking out clause 4 and by substituting therefor the following clause:

4. "duly qualified medical practitioner", "legally qualified medical practitioner", "physician" or any like words or expressions implying legal recognition of any person as a medical practitioner means a person registered under The Medical Profession Act, 1975 as a medical practitioner and who is not under suspension.

83. *The Medical Profession Act is hereby repealed.*

84. *This Act comes into force on the day upon which it is assented to.*

33. This Bill will repeal chapter 230 of the Revised Statutes of Alberta 1970.