

1979 BILL 30

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First Session, 19th Legislature, 28 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 30**

**THE HEALTH OCCUPATIONS ACT**

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THE MINISTER OF SOCIAL SERVICES  
AND COMMUNITY HEALTH

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

# **THE HEALTH OCCUPATIONS ACT**

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## **BILL 30**

1979

### **THE HEALTH OCCUPATIONS ACT**

*(Assented to , 1979)*

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

**1** In this Act,

- (a) “Board” means the Health Occupations Board established under this Act;
- (b) “Committee” means a Health Occupation Committee established under this Act;
- (c) “Department” means the Department of Social Services and Community Health;
- (d) “designated health occupation” means a health occupation designated by a regulation under section 27(1)(a) as a health occupation to which this Act applies;
- (e) “Minister” means the Minister of Social Services and Community Health;
- (f) “Registrar” means the Registrar of Health Occupations.

## **Explanatory Notes**

### **1 Definitions.**

**PART 1**  
**SCOPE OF PRACTICE**

**2(1)** No person other than a person who is registered under this Act shall use

(a) the name of a designated health occupation alone or in combination with other words, in a manner so as to express or imply that he is entitled to practice in that designated health occupation, or

(b) any name, title, description or abbreviation in any manner so as to express or imply that he is registered under this Act.

**(2)** A person who is registered under this Act shall

(a) perform only those health services that are prescribed in the regulations for the designated health occupation for which he is registered, and

(b) perform the services referred to in clause (a) only in accordance with any conditions or restrictions that are prescribed in the regulations with respect to them.

**(3)** This Act does not apply to a person who is entitled to practice a health occupation under any other Act.

## **2 Prohibitions and exclusion from Act.**

## **PART 2**

### **HEALTH OCCUPATIONS BOARD AND COMMITTEES**

**3**(1) There is hereby established a board called the Health Occupations Board consisting of the following members appointed by the Lieutenant Governor in Council, each for a term not exceeding 3 years:

(a) 3 members of the College of Physicians and Surgeons of Alberta;

(b) 6 other persons.

(2) The Lieutenant Governor in Council shall designate one of the members of the Board to be chairman and another to be deputy chairman.

(3) In the absence of the chairman and deputy chairman at a meeting of the Board, the members present shall appoint a member to preside at that meeting.

(4) The Registrar shall act as secretary to the Board.

(5) The Lieutenant Governor in Council may fill a vacancy in the Board by appointing a person as a member to fill the unexpired term of office of the former member, but no vacancy on the Board impairs the right of the remaining members to act until the vacancy is filled.

(6) A member is eligible to be re-appointed for not more than one additional consecutive term.

(7) An employee of the Department of Advanced Education and Manpower designated by the Minister of Advanced Education and Manpower is entitled

(a) to notice of meetings of the Board, and

(b) to attend meetings of the Board.

(8) A member of the Board who is not an employee of the Government may be paid remuneration for his services and an allowance for the expenses necessarily incurred in the performance of his duties, at the rates prescribed by the Minister.

(9) The Board may make rules governing the calling of and conduct of meetings of the Board and any other matters pertaining to its business and affairs.

(10) The Chairman may call a meeting at any time that he considers necessary or desirable and shall call a meeting at the request of not less than 4 members of the Board.



**3** Health Occupations Board.

(11) The Board shall meet at least 4 times a year.

(12) A majority of the members of the Board then holding office constitute a quorum at a meeting of the Board.

(13) The Minister may provide to the Board at no cost to it any supplies and the services of employees of the Government under his administration to carry out any work that in the opinion of the Minister may reasonably be required by the Board to enable it to perform its functions under this Act.

**4**(1) The Board shall conduct an investigation into a health occupation in respect of which

(a) an application has been made for it to be designated as a designated health occupation under this Act, or

(b) the Minister has directed the Board to make an investigation,

for the purpose of determining if the health occupation should be designated as a designated health occupation under this Act.

(2) In conducting an investigation into a health occupation under subsection (1), the Board shall

(a) ascertain the tasks involved in the practice of that health occupation and evaluate the complexity of those tasks,

(b) ascertain the degree of supervision by an employer over an employee engaged in the practice of that health occupation in the course of his employment,

(c) ascertain the existence of educational programs in Alberta for that health occupation approved by the Minister of Advanced Education and Manpower,

(d) evaluate educational programs that exist outside of Alberta for that health occupation,

(e) evaluate the potential and degree of risk of harm to the public that may result from the practice of that health occupation,

(f) consider the service that members of that health occupation may provide and any limitations or conditions under which those services may be provided,

(g) consider the qualifications and training that may be desirable for applicants for registration to practice in that health occupation, and

#### **4 Investigations by the Board.**

(h) consider the minimum standards of competency to be required of members of that health occupation in the practice of their occupation.

(3) The Board upon completion of an investigation under subsection (1) shall, if it is satisfied having regard to the matters ascertained or evaluated under subsection (2) that the health occupation meets the criteria prescribed in the regulations, designate that health occupation as a designated health occupation by regulation under section 27(1)(a).

**5(1)** The Minister shall by order

(a) establish a Health Occupation Committee for each designated health occupation, and

(b) designate for each Committee so established a name indicating the designated health occupation for which it is established.

(2) A Committee shall consist of not less than 3 or more than 9 members appointed by the Minister who are currently associated with and, in the opinion of the Minister, are knowledgeable with respect to the practice of the designated health occupation for which the Committee is established.

(3) The Minister shall designate one of the members of a Committee to be chairman.

(4) In the absence of the chairman at a meeting of a Committee, the members present shall appoint a member to preside at that meeting.

(5) The Registrar shall act as secretary to a Committee.

(6) If at the time of appointment of the members of a Committee one or more associations of persons exist that are engaged in the same or a similar health occupation as the designated health occupation, the majority of the members of the Committee shall be appointed from the members of that association of persons that, in the opinion of the Minister, represents the greatest number of all persons engaged in Alberta in that health occupation.

(7) Each member of a Committee shall be appointed for a term prescribed by the Minister so as to provide for the periodic replacement of members without loss in continuity of membership on the Committee.

(8) A member of a Committee who is not an employee of the government may be paid remuneration for his services and an allowance for the expenses necessarily incurred in the performance of his duties, at the rates prescribed by the Minister.

**5 Health Occupations Committee.**

(9) A Committee may make rules governing the calling of and conduct of meetings of the Committee and any other matters pertaining to its business and affairs.

(10) A majority of the members of a Committee then holding office constitutes a quorum at a meeting of the Committee.

(11) The Minister may provide to a Committee at no cost to it any supplies and the services of employees of the Government under his administration to carry out any work that in the opinion of the Minister may reasonably be required by the Committee to enable it to perform its functions under this Act.

**6** A Committee shall, in relation to the designated health occupation for which it was established,

(a) advise the Registrar with respect to applications for registration to practice in that designated health occupation,

(b) investigate complaints respecting unprofessional conduct or incompetence of a registered member of that designated health occupation,

(c) advise the Board with respect to the services that may be provided by registered members of that designated health occupation including any limitations or conditions under which those services may be provided,

(d) advise the Board with respect to standards of conduct for or competency of registered members of that designated health occupation in the practice of their occupation,

(e) advise the Board with respect to applications for registration to which section 12(2) applies to practice in that designated health occupation, and

(f) advise the Board with respect to the qualifications of and training desirable for applicants for registration to practice in that designated health occupation.

**7** The members of a Committee are entitled

(a) to receive notice of a Board meeting at which matters will be considered that relate to the designated health occupation for which that Committee was established, and

(b) to attend meetings referred to in clause (a).

**6** Powers of a Committee.

**7** Committee attendance at Board meetings.

**PART 3**  
**REGISTRATION**

**8** In accordance with *The Public Service Act* there may be appointed a Registrar of Health Occupations and any other persons who are necessary for the administration of this Act.

**9** The Registrar may authorize in writing an employee of the Government employed in the Department or a member of a Committee to do any act or thing required or permitted to be done by the Registrar under this Act or the regulations.

**10** The Registrar shall, when directed to do so by the Board, examine, inquire into, study and report to it on any matter that the Board considers necessary for the purpose of obtaining information for conducting an investigation under section 4 or for dealing with an application for registration to which section 12(2) applies.

**11(1)** The Registrar shall establish and maintain, in accordance with the regulations, a register for each designated health occupation.

(2) The Registrar shall, during regular office hours, permit the inspection by any person of the register for a designated health occupation.

(3) The Registrar shall annually submit to the Minister a report on all matters of registration under this Act and on the activities of the Board and Committees.

**12(1)** Subject to subsection (2), a person is eligible to be registered to practice in a designated health occupation if that person

(a) has the qualifications prescribed in the regulations, and

(b) is of good character and reputation.

(2) The Registrar shall not register a person without the approval of the Board if, as a result of disciplinary action by a regulating body governing the provision of health services outside of Alberta in respect of any matter apparently involving the person's skill, judgment or other abilities required to practice in the health occupation, or his conduct in practising the health occupation, the person is not entitled outside of Alberta to practice in the health occupation, either temporarily or permanently.



**8** Registrar and personnel.

**9** Delegation of Registrar's powers.

**10** Investigations by the Registrar.

**11** Register.

**12** Eligibility for registration.

(3) The Board may approve the registration of a person who is not entitled to practice in a health occupation outside Alberta as a result of disciplinary action referred to in subsection (2) if the Board is satisfied that

(a) the disciplinary action was not in respect of any matter that would have resulted in the cancellation of registration under this Act because of unbecoming conduct, lack of skill or judgment or unfitness to practice in the health occupation within the meaning of this Act or the regulations, by a registered member of a designated health occupation, and

(b) the person applying for registration is otherwise eligible to be registered under subsection (1).

**13** If the Registrar is satisfied that a person applying for registration is eligible to be registered under section 12(1) and, when section 12(2) applies, the Board has approved that person's registration under section 12(3), he shall enter the name of the person and any other information prescribed in the regulations in the register for the appropriate designated health occupation.

**14(1)** If the Registrar is not satisfied that a person applying for registration is eligible to be registered under section 12(1), he shall refer the application to the Committee established for that designated health occupation.

(2) The Committee, upon reviewing an application referred to it under subsection (1) or when requested under section 15(1), shall

(a) if it is satisfied that the person applying for registration is eligible to be registered under section 12(1), so advise the Registrar, or

(b) if it is not satisfied that the person applying for registration is eligible to be registered under section 12(1), advise the Registrar in writing of the reasons why it is not so satisfied.

(3) The Registrar, upon being advised by a Committee under subsection (2) or section 15(2) with respect to an application referred to it under subsection (1) or when requested under section 15(1), shall

(a) if the Committee is satisfied that the person applying for registration is eligible to be registered under section 12(1), register the person, or

(b) if the Committee is not satisfied that the person applying for registration is eligible to be registered under section 12(1),

**13** Registration.

**14** Review of application by a Committee.

(i) immediately serve on that person a copy of the Committee's advice to him and the reasons for it, and

(ii) not register that person.

**15(1)** If the Registrar has not registered a person or has refused to register a person within 60 days after the date on which the Registrar received an application, the application shall be deemed to have been refused on the last day of that 60-day period, and the person applying for registration may request a review of the application by the Committee to determine if that person is eligible to be registered under section 12.

(2) The Committee shall, within 30 days of receiving a request under subsection (1), review and advise the Registrar with respect to the application in accordance with section 14(2), and the Registrar shall deal with the Committee's advice in accordance with section 14(3).

**16(1)** A registered member of a designated health occupation shall annually on or before the date prescribed in the regulations in respect of that designated health occupation submit to the Registrar a return in the form prescribed in the regulations.

(2) If a registered member of a designated health occupation fails to submit a return as required under subsection (1), the Registrar may cancel that member's registration after the expiration of one month following the service on that member of a written notice by the Registrar of his intention to cancel the registration unless that member submits the return to the Registrar within the time prescribed in the notice.

(3) The Registrar shall, if a return submitted under subsection (1) indicates that the person who submitted the return has practised the occupation to which his registration applies for less than 30 days out of the year to which the return applies, refer the return to the Committee established for the designated health occupation of which that person is a member.

(4) The Committee, upon receiving a return referred to it under subsection (3), may require the person named in the return to

(a) take a training program,

(b) pass an examination, or

(c) take a training program and pass an examination

as prescribed in the regulations within a period of time specified by the Committee.

**15** Review of refusal to register.

**16** Annual return and cancellation of registration.

(5) If a person does not take a training program or pass an examination or both as required under subsection (4) within the period of time specified by the Committee, the Committee may direct the Registrar to cancel that person's registration.

**17** The Registrar may cancel the registration of a registered member of a designated health occupation at the request or with the consent of that member.

**17** Cancellation of registration with registered member's consent.

## **PART 4**

### **COMPLAINT PROCEEDINGS**

**18** A person who

(a) has a complaint respecting the skill or judgment of a registered member of a designated health occupation in the practice of his occupation or his fitness to practice his occupation, or his conduct, whether in an occupational capacity or otherwise, or

(b) has reason to believe that a registered member of a designated health occupation has provided health services other than those health services that he is authorized to provide under this Act or the regulations,

may make a complaint in writing to the appropriate Committee.

**19** For the purposes of this Act, the determination of whether a person registered under this Act

(a) has been guilty of unbecoming conduct whether in an occupational capacity or otherwise, or

(b) has displayed a lack of skill or judgment in the practice of his occupation or is unfit to practise his occupation

is a question of fact for the determination of the Committee, the Board, or, on appeal, for the final determination of the Court of Queen's Bench.

**20(1)** Upon review of a complaint under section 18, a Committee shall

(a) if it is of the opinion that the complaint is frivolous or vexatious, direct that no further action be taken, or

(b) in any other case, hold a hearing with respect to it.

(2) If a Committee holds a hearing with respect to a complaint, it shall serve, not less than 30 days before the date of the hearing

(a) a copy of the complaint and a notice of the hearing on the person named in the complaint, and

(b) a notice of the hearing on the complainant.

(3) The Committee may adjourn a hearing from time to time.



**18** Complaints.

**19** Determination of unbecoming conduct and lack of skill.

**20** Hearings on complaints.

(4) The Committee may at a hearing

(a) examine witnesses under oath administered by its chairman or in the absence of the chairman, the member appointed to act under section 5(4),

(b) require the attendance of the person named in the complaint and any other witnesses, and

(c) require the production of books, papers, records or other documents relevant to the proceedings.

(5) The chairman may issue and serve on the person to whom it is directed a notice requiring

(a) the attendance of the person named in the notice, or

(b) the production of books, papers and other documents at the hearing

stating the time and place at which the person named in the notice shall attend to give evidence and to produce the documents, if any, that he is required to produce.

(6) A notice issued under subsection (5) has the force of a subpoena issued out of the Court of Queen's Bench.

(7) The person named in the complaint and the complainant may make oral representations to and may be represented at a hearing by counsel or an agent.

(8) If the person whose conduct is the subject of a complaint does not attend a hearing, the Committee may, upon proof of service of the notice issued under subsection (2),

(a) direct the Registrar to suspend that person's registration until it has made a decision with respect to the complaint, and

(b) hold the hearing in his absence.

(9) The Committee, if it is satisfied that a complaint against a person has been proven in whole or in part, may, by order, do any one or more of the following:

(a) reprimand the person;

(b) direct the person to pay a fine;

(c) direct the suspension of the person's registration for a stated period;

(d) direct the cancellation of the person's registration;



(e) impose any conditions or restrictions on the practice of the designated health occupation by the person that it considers appropriate;

(f) order the person to pay the costs of the investigation and hearing;

(g) require the person to take the training prescribed in the regulations at the times and in the manner specified in the order.

(10) A fine ordered to be paid pursuant to subsection (9)(b) and any costs ordered to be paid pursuant to subsection (9)(f) shall be paid into the General Revenue Fund.

(11) The Committee shall serve the order together with written reasons for making the order on the person in respect of whom it is made and on the complainant, and shall send a copy of the order to the Registrar.

**21** Upon receiving the written direction of a Committee under section 20(8) to suspend the registration of the person named in a complaint, the Registrar shall suspend that person's registration, and upon making the suspension, shall serve on that person a notice in writing informing him of the suspension and any terms or conditions applicable to it.

**22** A person whose registration is suspended under this Act shall not practice in the designated health occupation for which he is registered until he is notified by the Registrar in writing that the suspension has been revoked by the Registrar or until the suspension has expired in accordance with its terms.

**21** Default orders.

**22** Effect of suspension.

## **PART 5**

### **REVIEWS AND APPEALS**

**23(1)** A person who has not been registered by the Registrar in accordance with section 14(3)(b) may, within 30 days after the date of service of the Committee's advice and the reasons for it, in writing request the Board to review the Committee's advice.

(2) A person in respect of whom an order has been made under section 20(9) or the complainant may, within 30 days of the date of the service of the order and the reasons for it, in writing request the Board to review the order.

(3) The Board shall within 30 days of the receipt of a request for a review under subsection (1) or (2) review the advice or order and the reasons for it in accordance with section 24.

(4) If a complaint against a registered member of a designated health occupation under this Act has not been disposed of by a Committee within 60 days after the complaint is made, the complainant may in writing request the Board to conduct a hearing and the Board shall, as soon as practical, conduct a hearing in accordance with section 24.

**24(1)** The Board, on a review under section 23(3) or on conducting a hearing on a complaint under section 23(4),

(a) shall, in the case of a review, comply with section 20(2),

(b) shall, in the case of a complaint, comply with section 20(1) and (2),

(c) has, in the case of a complaint, all the powers of a Committee under section 20(3), (4), (5), (8) and (9), and

(d) shall, in the case of a review or a complaint, advise the Registrar in writing of its decision and provide him with the reasons for its decision.

(2) The Board may, upon reviewing a Committee's advice to which section 23(1) applies or an order to which section 23(2) applies, confirm, reverse or vary the decision of the Committee.

(3) Upon receiving the Board's decision, the Registrar shall do all things necessary to carry out the Board's decision and shall serve

**23** Reviews by the Board.

**24** Hearings by the Board.

(a) in the case of a review to which section 23(1) applies, the applicant, and

(b) in the case of an order to which section 23(2) applies, the complainant and the person named in the complaint,

with a copy of the Board's decision and of the reasons for its decision.

**25**(1) A party to proceedings before the Board under section 24 may within 30 days of the date of service of the decision of the Board, appeal to the Court of Queen's Bench by way of originating notice.

(2) The originating notice shall

(a) name the Board as the respondent,

(b) state the reasons for the appeal, and

(c) be served on the Registrar, the Board and any other party to the proceedings, within 30 days of the date of service of the order of the Board.

(3) An appeal under this section shall be by way of a rehearing of the matter on the merits.

**26**(1) The Court, upon hearing the appeal, may make any findings of fact that in its opinion ought to have been made and may

(a) reverse, confirm or vary any decision or order made by the Board or substitute its own decision for the decision of the Board, or

(b) refer the matter back to the Board for further consideration by it.

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



**25** Appeals to the Court.

**26** Powers of Court.

## **PART 6**

### **GENERAL PROVISIONS**

#### **27(1) The Board may make regulations**

- (a) designating a health occupation as a health occupation to which this Act applies;
- (b) prescribing the services that a designated health occupation may provide;
- (c) prescribing conditions under which or limitations within which a designated health occupation may provide services;
- (d) establishing the qualifications and conditions of eligibility of persons who may apply for a registration to practice in a designated health occupation;
- (e) prescribing forms for the purposes of this Act;
- (f) respecting registers to be kept under section 11;
- (g) prescribing standards of conduct and competency of members of a designated health occupation;
- (h) prescribing, in respect of a designated health occupation, a date or dates for the purposes of section 16(1);
- (i) respecting training programs for applicants for registration to practice in a designated health occupation;
- (j) respecting examinations to determine the eligibility of a person who has participated in and successfully completed a training program.

(2) A regulation under subsection (1) does not come into force unless it is approved by the Lieutenant Governor in Council under subsection (3).

(3) The Lieutenant Governor in Council may, with respect to a regulation referred to in subsection (1),

- (a) approve the regulation,
- (b) vary the regulation and approve the regulation as varied, or
- (c) disapprove the regulation.

**27** Regulations.

**28** Notwithstanding section 27, if the Minister has requested the Board to make a regulation under section 27(1) or to amend or repeal a regulation made under section 27(1) and the Board neglects or refuses to make the regulation so requested or to amend or repeal a regulation as requested by the Minister within 60 days of the date of the request, the Lieutenant Governor may make the regulation so requested, or may amend or repeal the regulation as requested.

**29** A notice, order, request for review, complaint or other document or a copy of any one or more of them that is required by this Act to be served on or that may be made to any person, shall be served personally or by registered or certified mail addressed to the person at his last known address.

**30** Subject to this Act or any other Act and the regulations under this Act or any other Act, all matters coming before the Board or a Committee in respect of any person who receives health services from a registered member of a designated health occupation shall be treated by the members of the Board or Committee 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 that person without his consent.

**31** A person who contravenes section 2, 22 or 30 is guilty of an offence and liable on summary conviction to a fine of not more than \$500.

**32** *The Dental Association Act is amended*

(a) *by repealing section 55(2) and substituting the following:*

(2) Subsection (1) does not apply so as to prohibit a member of the Association from employing any person to perform in the field of dentistry any duties that the person is qualified and authorized under any other Act to perform.

(b) *by repealing section 56.*

**33** *The Alberta Health Care Insurance Act is amended in section 25(2) by adding "or" at the end of clause (g) and by adding the following after clause (g):*

(h) to the Health Occupations Board or a Health Occupation Committee under *The Health Occupations Act*, if the information is furnished in compliance with a notice under section 20 of *The Health Occupations Act*.

**28** Lieutenant Governor's power to make, amend or repeal regulations.

**29** Methods of service of documents.

**30** Confidential information.

**31** Offences.

**32** Amends chapter 90 of the Revised Statutes of Alberta 1970.

**33** Consequential amendment to chapter 166 of the Revised Statutes of Alberta 1970.

**34** *The Alberta Hospitals Act is amended in section 35(5.1) by adding the following after clause (d):*

(e) the board of an approved hospital may divulge any records of diagnostic and treatment services provided in respect of a patient to the Health Occupations Board or a Health Occupation Committee under *The Health Occupations Act* if the disclosure is made by a member or employee of the Board in compliance with a notice under section 20 of *The Health Occupations Act*.

**35** *The Emergency Medical Aid Act is amended*

(a) *by repealing section 2(a2) and substituting the following:*

(a.2) “registered health occupation member” means a person who is registered under *The Health Occupations Act*;

(b) *in section 3 by striking out “professional medical assistant” wherever it occurs and substituting “registered health occupation member”.*

**36** *The Medical Profession Act, 1975 is amended by repealing the following provisions:*

section 1(g);  
section 26;  
section 32(1)(g);  
section 64(1)(g);  
section 71.

**37** *The Public Health Act is amended by repealing section 7(1), clauses 7, 47 and 49.*

**38** This Act comes into force on a date or dates to be fixed by Proclamation.

**34** Consequential amendment to chapter 174 of the Revised Statutes of Alberta 1970.

**35** Amends chapter 112 of the Revised Statutes of Alberta 1970.

**36** Amends chapter 26 of the Statutes of Alberta, 1975.

**37** Amends chapter 294 of the Revised Statutes of Alberta 1970.