

1985 BILL 75

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 75

PSYCHOLOGY PROFESSION ACT

HON. DR. REID

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 75

1985

PSYCHOLOGY PROFESSION ACT

(Assented to , 1985)

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

Definitions

1 In this Act,

- (a) “approved program of psychology” means a program of psychology designated as an approved program of psychology under Part 3;
- (b) “Association” means the Psychologists Association of Alberta;
- (c) “chartered psychologist” means a person who is issued a certificate of registration under this Act and who holds an annual certificate as a member of the Association;
- (d) “Council” means the Council of the Association;
- (e) “Discipline Committee” means the Discipline Committee established under this Act;
- (f) “Minister” means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;
- (g) “practice of psychology” means the application of professional psychological knowledge for compensation for the purpose of the diagnosing, preventing, remedying or ameliorating human mental, emotional, behavioural or relationship difficulties, in order to evaluate or enhance human performance and to enhance mental or physical health;
- (h) “Practice Review Committee” means the Practice Review Committee established under this Act;
- (i) “registrant” means a person other than a chartered psychologist who is registered under the regulations;
- (j) “Registrar” means the chartered psychologist appointed as Registrar of the Association by the Council.

PART 1

PRACTICE OF PSYCHOLOGY

Use of name

- 2(1)** No person, except a chartered psychologist, shall use the name “chartered psychologist” or any other name or abbreviation of those words, alone or in combination with any other word, that represents expressly or by implication that he is a chartered psychologist, or use any title, name, description, abbreviation, letter or symbol representing the name “chartered psychologist”.
- (2) No person, except a chartered psychologist or registrant, shall use the term “psychologist” or an abbreviation of it, alone or in combination with another word.
- (3) No person, except a chartered psychologist, shall represent or hold out, expressly or by implication, that he is a chartered psychologist.
- (4) No person, except a chartered psychologist or a registrant, shall represent or hold out, expressly or by implication, that he is registered under this Act or the regulations.

(5) Nothing in this Act authorizes or allows a registrant to engage in the practice of psychology contrary to the limitations, conditions or restrictions set out in the regulations.

(6) A chartered psychologist and a registrant are entitled to engage in the practice of psychology in accordance with this Act and the regulations.

Exemption **3(1)** The Lieutenant Governor in Council, after consultation with the Council, may make regulations exempting, subject to any terms and conditions that the Lieutenant Governor in Council may impose, a person or class of persons from the application of section 2(2).

(2) Nothing in this Act applies to or affects the practice of any profession or occupation by any person practising under the authority of any other Act.

Injunction **4** The Court of Queen's Bench, on application by the Council by way of originating notice, may grant an injunction enjoining any person from doing any act that contravenes section 2, notwithstanding any penalty that may be provided by this Act in respect of that contravention.

PART 2

PSYCHOLOGISTS ASSOCIATION OF ALBERTA

Association **5(1)** The Psychologists Association of Alberta is continued as a corporation.

(2) The Association has the capacity and, subject to this Act, the rights, powers and privileges of a natural person.

(3) A chartered psychologist is a member of the Association.

Council **6(1)** There is hereby established a governing body of the Association called the Council.

(2) The Council shall manage and conduct the business and affairs of the Association and exercise the rights, powers and privileges of the Association in the name and on behalf of the Association and shall control and direct the registration, recording and discipline of chartered psychologists and other classes or categories of registrants established under the regulations.

Annual report **7(1)** The Council shall submit to the Minister an annual report on those matters of the business and affairs of the Association that the Minister requires in a form satisfactory to him.

(2) The Minister shall, on receipt of the annual report of the Association, lay it before the Legislative Assembly if it is then sitting, and if it is not then sitting, within 15 days after the commencement of the next ensuing sitting.

Composition of the Council **8(1)** The Council shall consist of

(a) at least 10 chartered psychologists or a greater number that may be prescribed by or determined in accordance with the by-laws, each of whom shall be elected in accordance with the by-laws,

- (b) when the number of persons elected under clause (a) does not exceed 10, 1 member of the public or, when the number of persons elected under clause (a) is more than 10, 2 members of the public, who shall be appointed by the Minister after consultation with the Council for a 1-year term of office, and
 - (c) ex officio members, if any, appointed by the Council.
- (2) An ex officio member shall not vote on a matter before the Council.
 - (3) A member of the public appointed under subsection (1)(b) continues to hold office after the expiry of his term of office until he is reappointed or his successor is appointed.
 - (4) The Minister may, after consultation with the Council, revoke the appointment of a member of the public appointed under subsection (1)(b).
 - (5) The Minister may pay to a member of the Council appointed under subsection (1)(b) travelling and living expenses incurred by that member for his attendance at any meeting of the Council while away from his usual place of residence and fees in an amount prescribed by the Minister.
 - (6) The powers, duties and operations of the Council are not affected by
 - (a) the fact that no one is appointed as a member of the Council under subsection (1)(b),
 - (b) the revocation under subsection (4) of the appointment of a member of the Council, or
 - (c) the resignation from the Council of a member appointed under subsection (1)(b).
 - (7) The failure of a member appointed under subsection (1)(b) to attend a meeting of the Council does not affect or restrict the Council from exercising any powers or performing any duties at that meeting.

PART 3

REGISTRATION

Approved
program

9(1) The Universities Co-ordinating Council may grant to and withdraw from an academic institution the designation “approved program of psychology”.

(2) A designation granted or withdrawn under subsection (1) does not come into force unless it is approved by the Lieutenant Governor in Council.

Registrar

10(1) The Council shall appoint a chartered psychologist as Registrar for the purposes of this Act.

(2) In addition to the powers, duties and functions of the Registrar under this Act, the Registrar has any additional powers, duties and functions prescribed by the Council or in the by-laws.

Registers to be maintained	<p>11(1) The Registrar shall maintain, subject to the direction of the Council, the following registers:</p> <ul style="list-style-type: none"> (a) a register of chartered psychologists; (b) a register for each class or category of registrant. <p>(2) The Registrar shall during regular office hours permit any person to inspect the registers described in subsection (1).</p>
Registration Committee	<p>12(1) There is hereby established a Registration Committee appointed by the Council in accordance with the by-laws.</p> <p>(2) The Registration Committee may delegate its authority under this Act to the Registrar.</p>
Register of chartered psychologists	<p>13(1) The Council shall establish a register of chartered psychologists.</p> <p>(2) The Registration Committee shall consider an application for the registration of an applicant as a chartered psychologist, and may</p> <ul style="list-style-type: none"> (a) approve the registration, (b) refuse to approve the registration, or (c) defer the approval of registration until the applicant has obtained further experience of a kind and for a period set by the Registration Committee.
Review by Council	<p>14(1) The Registration Committee shall send a written notice of a decision made by it to the applicant.</p> <p>(2) If the decision of the Registration Committee is to refuse or defer registration of the applicant, reasons for the decision shall be sent in writing to the applicant.</p> <p>(3) An applicant whose application for registration is refused may, within 30 days of receiving a notice of refusal, request the Council to review the application by serving on the Registrar a written request for a review by the Council setting out the reasons why, in his opinion, his application for registration as a registered member should be approved.</p> <p>(4) For the purposes of subsection (3), if the Registration Committee does not approve, refuse to approve or defer the registration of an applicant within 60 days from the date on which an applicant applied for registration, the application shall be deemed to have been refused.</p> <p>(5) The Council shall, after receipt of a request for review under subsection (3), review the application for registration as a chartered psychologist.</p> <p>(6) An applicant who requests a review pursuant to subsection (3)</p> <ul style="list-style-type: none"> (a) shall be notified in writing by the Council of the date, place and time at which the Council will review the applicant's application, and (b) is entitled to appear with counsel and make representations to the Council at the review of his application.

(7) A member of the Registration Committee who is also a member of the Council shall not vote on a decision of the Council.

(8) On reviewing an application under this section, the Council may make any decision the Registration Committee could have made.

Requirements for
registration

15(1) An application for registration as a chartered psychologist shall not be approved by the Registration Committee unless the applicant

(a) produces

(i) a certificate of approval from the Universities Co-ordinating Council showing that the applicant has obtained an earned doctoral degree from an approved program of psychology, or

(ii) documentation satisfactory to the Registration Committee that shows that the Universities Co-ordinating Council is satisfied with the academic qualifications of the applicant,

and

(b) meets the character and other requirements set out in the regulations.

(2) Notwithstanding subsection (1), for a period of 5 years following the date on which this Act comes into force, an applicant for registration as a chartered psychologist who

(a) produces

(i) a certificate of approval from the Universities Co-ordinating Council showing that he has an earned master's degree from an approved program of psychology, or

(ii) documentation satisfactory to the Registration Committee that shows that the Universities Co-ordinating Council is satisfied with the academic qualifications of the applicant,

and

(b) meets the character and other requirements set out in the regulations

shall be deemed to have the necessary qualifications required for registration as a chartered psychologist and may maintain his registration notwithstanding subsection (1).

Registration

16(1) The Registrar shall enter in the register of chartered psychologists the name of a person

(a) whose application for registration as a chartered psychologist has been approved by the Registration Committee or the Council, as the case may be, and

(b) who has paid the fees prescribed in the by-laws.

(2) On entering the name of a person in the register of chartered psychologists, the Registrar shall issue a certificate of registration to that person.

Annual certificate

17(1) A chartered psychologist shall pay the annual fee prescribed in the by-laws to the Registrar.

(2) The Registrar shall issue an annual certificate in accordance with the by-laws to a chartered psychologist

(a) whose registration is not under suspension or cancelled,

(b) who meets any requirements or conditions prescribed by the regulations for the issuance of an annual certificate, and

(c) who has paid the annual fee prescribed in the by-laws.

(3) Subject to this Act, an annual certificate entitles a chartered psychologist to

(a) engage in the practice of psychology as a chartered psychologist during the year for which the annual certificate is issued, and

(b) represent or hold himself out as a chartered psychologist.

(4) An annual certificate expires on the date prescribed in the by-laws.

PART 4

SUSPENSION AND CANCELLATION

Suspension and
cancellation

18(1) The certificate of registration and annual certificate of a chartered psychologist are suspended when a decision to suspend the registration of the chartered psychologist is made in accordance with this Act.

(2) The Registrar shall, after a decision to suspend the registration has been made, enter a memorandum of the suspension in the appropriate register, indicating the period of the suspension.

(3) The certificate of registration and annual certificate of a chartered psychologist are cancelled when a decision to cancel the registration of the chartered psychologist is made in accordance with this Act.

(4) The Registrar shall, after a decision to cancel the registration has been made, enter a memorandum of the cancellation in the appropriate register.

(5) If the Registrar is satisfied that a person registered under this Act has died, he shall enter a memorandum to that effect in the register.

(6) The Registrar shall not remove from the registers any memorandum made by him under subsection (2) or (4), except in accordance with the regulations.

(7) If the certificate of registration and annual certificate of a chartered psychologist have been cancelled or suspended under this Act, the chartered psychologist shall surrender to the Registrar the certificate of registration and annual certificate.

Cancellation
by request

19(1) The Registrar shall not cancel the registration of a chartered psychologist at the request of the chartered psychologist unless the request for the cancellation has been approved by the Council.

(2) When a request for the cancellation of registration is approved by the Council, the Registrar shall cancel that registration.

Cancellation
by default

20(1) The Council may direct the Registrar to cancel the certificate of registration or annual certificate of a chartered psychologist who is in default of payment of annual fees, penalties, costs or any other fees, dues or levies payable under this Act, the regulations or the by-laws after the expiration of 30 days following the service on the chartered psychologist of a written notice by the Council in accordance with subsection (2), unless the person on whom the notice is served complies with the notice.

(2) The notice under subsection (1) shall state that the Registrar may cancel the registration unless the fees, penalties, costs, dues or levies are paid as indicated in the notice.

Cancellation of
registration made
in error

21 The Council may direct the Registrar to cancel the registration of any person made in error in a register.

Reinstatement

22(1) The Council may direct the Registrar, subject to any conditions respecting the payment of arrears and any reinstatement fee that the Council may prescribe,

(a) to reinstate in the applicable register a registration that was cancelled, and

(b) to reissue a certificate of registration or an annual certificate, or both, to the former holder.

(2) If the registration of a chartered psychologist or a registrant has been cancelled, the registration shall not be reinstated except by order of the Council or by a court of competent jurisdiction and on payment of the fees prescribed in the by-laws.

(3) No order shall be made under subsection (2) within 1 year after

(a) the date on which the registration or permit was cancelled, or

(b) the date on which the court made its order confirming the punishment, if an order was granted staying the imposition of a punishment imposed by the Council, and the punishment was later confirmed by a court of competent jurisdiction.

(4) A member of the Council who is a member of a committee of inquiry appointed pursuant to the regulations to consider any application under this Part for reinstatement of a certificate of registration or annual certificate may participate in or vote at any proceedings of the Council under this section, and the Association's solicitor may participate in those proceedings.

Cancellation of
falsely obtained
registration

23(1) If the Council is satisfied, after a hearing on the matter, that a person obtained registration in one of the registers established under this Act by means of a false or fraudulent representation or declaration, either oral or written, the Council shall order that the registration be cancelled, and the certificate of registration and annual certificate shall be surrendered in accordance with section 18.

(2) Part 6 applies with all necessary modifications to a hearing held by the Council under subsection (1).

PART 5
PRACTICE REVIEW COMMITTEE

Practice Review
Committee

24 There is hereby established the Practice Review Committee consisting of

- (a) no fewer than 5 chartered psychologists appointed by the Council in accordance with the by-laws, and
- (b) such other persons as may be specified in the by-laws.

Powers of the
Practice Review
Committee

25(1) The Practice Review Committee

(a) may, on its own initiative, and shall, at the request of the Council, inquire into and report to and advise the Council in respect of

- (i) the assessment and development of educational standards and experience requirements that are conditions precedent to continuing registration under this Act or the regulations,
- (ii) the evaluation of desirable standards of competence of chartered psychologists and registrants generally,
- (iii) any other matter that the Committee from time to time considers necessary or appropriate in connection with the exercise of its powers and the performance of its duties in relation to competence in the practice of psychology under this Act and the regulations, and
- (iv) the practice of psychology generally,

and

(b) may conduct, in accordance with this Act and the regulations, a review of the practice of a chartered psychologist or registrant.

(2) After each inquiry or review under this section, the Practice Review Committee

- (a) shall make a written report to the Council on the inquiry or review and, where appropriate, on its decision,
- (b) may make recommendations to the Council regarding the matter inquired into or reviewed, with reasons for the recommendations, and
- (c) may make recommendations to a chartered psychologist or registrant as to the conduct of that person in the practice of psychology.

(3) If a chartered psychologist or registrant does not co-operate with the Practice Review Committee in carrying out an inquiry or review, the Practice Review Committee may make a complaint in writing to the Discipline Committee and the failure or refusal to co-operate may be held by the Discipline Committee to be professional misconduct.

(4) The Practice Review Committee may refer the conduct of a chartered psychologist or a registrant to whom Part 6 applies to the Dis-

cipline Committee and the referral shall be treated as a complaint under Part 6.

PART 6

DISCIPLINE

Definitions

26 In this Part,

- (a) “chairman” means the chairman of the Discipline Committee and includes a vice-chairman;
- (b) “complaint” means a complaint made in writing about the conduct or alleged conduct of a chartered psychologist or registrant signed by the person making it;
- (c) “conduct” includes an act or omission;
- (d) “investigated person” means a chartered psychologist or a registrant with respect to whose conduct an investigation or hearing is held under this Part.

Discipline Committee

27(1) There is hereby established a committee called the Discipline Committee composed of no fewer than 5 persons as follows:

- (a) at least 4 chartered psychologists appointed by the Council in accordance with the by-laws, and
 - (b) 1 person who is appointed by the Minister from a list of no fewer than 3 members of the public nominated by the Council.
- (2) If the Council fails, within a reasonable period of time after being asked to do so by the Minister, to make nominations for the purposes of subsection (1)(b), the Minister may appoint a member of the public to the Discipline Committee without the Council’s nomination.
- (3) A member of the Discipline Committee appointed under subsection (1)(b) continues to hold office after the expiry of his term of office until he is reappointed or his successor is appointed.
- (4) The Minister may, in the absence of any payment by the Association to the member for that purpose, pay to the member of the Discipline Committee appointed under subsection (1)(b) travelling and living expenses incurred by that member for attendance at a hearing of the Committee away from his usual place of residence and fees in an amount prescribed by the Minister.
- (5) The Minister may, after consultation with the Council, revoke the appointment of the member of the Discipline Committee appointed under subsection (1)(b).
- (6) The powers, duties and operations of the Discipline Committee are not affected by
- (a) the fact that no member of the public is appointed as a member of the Committee under subsection (1)(b),
 - (b) the revocation under subsection (5) of the appointment of a member of the public, or
 - (c) the resignation as a member of the Committee of a member of the public.

	<p>(7) The failure of a member of the public appointed under subsection (1)(b) to attend a meeting of the Committee shall not be construed as affecting or restricting the Committee from exercising any powers or performing any duties at that meeting.</p>
Unskilled practice of psychology or professional misconduct	<p>28(1) Conduct of a chartered psychologist or a registrant that, in the opinion of the Discipline Committee,</p> <ul style="list-style-type: none"> (a) is detrimental to the best interests of the public, (b) contravenes this Act or the regulations, (c) harms or tends to harm the standing of the profession of psychology generally, or (d) displays a lack of knowledge of or lack of skill or judgment in the practice of psychology, <p>whether or not that conduct is disgraceful or dishonourable, constitutes either unskilled practice of psychology or professional misconduct, whichever the Discipline Committee finds.</p> <p>(2) If an investigated person contravenes this Act, the regulations or the by-laws, and the contravention is, in the opinion of the Discipline Committee, of a serious nature, the contravention may be found by the Discipline Committee to be professional misconduct whether or not it would be so found under subsection (1).</p>
Complaints	<p>29(1) A person may complain to the Registrar about the conduct of a chartered psychologist or registrant and the complaint shall be dealt with in accordance with this Part and the regulations.</p> <p>(2) A complaint respecting the conduct of a chartered psychologist or a registrant whose registration was cancelled or suspended pursuant to this Act or any predecessor of this Act may, notwithstanding the cancellation or suspension, be dealt with within 5 years following the date of cancellation or suspension as if the cancellation or suspension had not occurred.</p>
Preliminary investigation	<p>30 The Registrar</p> <ul style="list-style-type: none"> (a) shall, in a case where a complaint in writing is made to him under section 29, forthwith on receipt of a complaint, or (b) may, in a case where he believes the conduct of a chartered psychologist or registrant constitutes or may constitute unskilled practice of psychology or professional misconduct, <p>commence or appoint a chartered psychologist to commence a preliminary investigation into the conduct of the chartered psychologist or registrant.</p>
Report of preliminary investigation	<p>31(1) A person conducting a preliminary investigation may</p> <ul style="list-style-type: none"> (a) request any person to answer any questions and to produce to him any charts, documents, papers, notes, records and other materials and things relevant to the investigation, and (b) copy and keep copies of any of the things that are produced to him under clause (a).

	<p>(2) A person conducting a preliminary investigation shall conduct the investigation in a manner considered by him to be most suitable in all the circumstances.</p> <p>(3) A person conducting a preliminary investigation may investigate any other matter related to the professional conduct or skill in practice of the investigated person that arises in the course of the investigation.</p> <p>(4) A person conducting a preliminary investigation shall, forthwith on concluding the preliminary investigation, report his findings to</p> <ul style="list-style-type: none"> (a) the Registrar, if the person conducting the preliminary investigation is a person other than the Registrar, or (b) a member of the Discipline Committee, if the person conducting the preliminary investigation is the Registrar. <p>(5) If a chartered psychologist or registrant does not co-operate with a person conducting a preliminary investigation, the person conducting the preliminary investigation may make a complaint in writing to the Discipline Committee and the failure or refusal to co-operate may be held by the Discipline Committee to be professional misconduct.</p>
Referral to the Discipline Committee	<p>32 The Registrar or member of the Discipline Committee to whom a report is provided under section 31(4) shall forthwith</p> <ul style="list-style-type: none"> (a) direct that no further action be taken, if he is of the opinion that <ul style="list-style-type: none"> (i) the complaint is frivolous or vexatious, or (ii) there is insufficient evidence of unskilled practice of psychology or professional misconduct, or (b) refer the matter under investigation in writing to the Discipline Committee.
Notice	<p>33 The Registrar or the member of the Discipline Committee shall serve on the investigated person and on the complainant, if any, a notice that no further action will be taken or that the matter has been referred to the Discipline Committee, as the case may be.</p>
Appeal by complainant to the Discipline Committee	<p>34(1) A complainant who is served with a notice under section 33 that no further action will be taken may, by notice in writing to the Registrar mailed within 30 days of service of the notice under section 33 on the complainant, appeal that direction to the Discipline Committee.</p> <p>(2) On an appeal under subsection (1), the Discipline Committee shall determine whether</p> <ul style="list-style-type: none"> (a) the complaint is frivolous or vexatious, or (b) there is sufficient evidence of unskilled practice of psychology or professional misconduct, and the matter should be the subject of a hearing, <p>and shall notify the complainant and the investigated person in writing of its decision.</p>

Suspension pending decision	<p>35(1) Notwithstanding anything in this Act, the chairman may recommend to the president of the Association that the registration of a chartered psychologist or registrant be temporarily suspended pending the outcome of proceedings under this Part and the president may suspend the registration accordingly.</p> <p>(2) The investigated person may, by filing an originating notice with the Court of Queen's Bench and serving a copy on the chairman, apply for an order of the Court staying the decision of the president.</p>
Rights of investigated person	<p>36(1) The Association and the investigated person may appear and be represented by counsel at a hearing before the Discipline Committee.</p> <p>(2) The Discipline Committee may be represented by counsel at a hearing before the Committee.</p> <p>(3) Proceedings before the Discipline Committee or the Council shall be held in camera.</p>
Notice of hearing	<p>37(1) On referral to it of a matter under section 32(b) or on determining under section 34(2)(b) that a hearing should be held, the Discipline Committee shall hold a hearing.</p> <p>(2) The hearing referred to in subsection (1) shall be scheduled for a date not more than 90 days after the date on which the matter is referred to the Discipline Committee or the determination is made, or within such other period as may be prescribed by the Council for the matter.</p> <p>(3) The Registrar shall cause to be served on the investigated person at least 15 days before the hearing date a notice of hearing stating the date, time and place at which the Discipline Committee will hold a hearing and giving reasonable particulars of the complaint or matter in respect of which the hearing will be held.</p>
Further investigation	<p>38 The Discipline Committee may investigate and hear any other matter related to the professional conduct or skill in practice of the investigated person that arises in the course of an investigation or hearing, but in that event, the Discipline Committee shall give that person notice of its intention to do so at least 15 days before the hearing of the matter.</p>
Evidence before Committee	<p>39(1) Evidence may be given before the Discipline Committee in any manner that the Committee considers appropriate, and the Committee is not bound by the rules of law respecting evidence applicable to judicial proceedings.</p> <p>(2) For the purposes of an investigation, hearing or review under this Act, the Registrar, a person appointed by him under section 30 or any member of the Council or the Discipline Committee is conferred with the powers of a commissioner for oaths under the <i>Commissioners for Oaths Act</i>.</p>
Witness	<p>40(1) The investigated person and any other chartered psychologist or registrant who, in the opinion of the Discipline Committee, has knowledge of the complaint or matter being investigated are compellable witnesses in any proceeding under this Part.</p>

(2) A witness referred to in subsection (1) may be examined under oath on all matters relevant to the investigation or hearing before the Discipline Committee and shall not be excused from answering any question on the ground that the answer might tend to

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

but if the answer so given tends to incriminate him, subject him to punishment or establish his liability, it shall not be used or received against him in any civil proceedings or in any proceedings under any other Act.

(3) For the purpose of obtaining the testimony of a witness who is out of Alberta, a judge of the Court of Queen's Bench on an application made ex parte by the Association may direct the issuing of a commission for the obtaining of evidence of the witness and the commission shall be issued and the evidence taken pursuant to the Alberta Rules of Court.

Attendance of
witnesses and
production of
documents

41(1) The attendance of witnesses referred to in section 40(1) before the Discipline Committee and the production of charts, documents, papers, notes, records and other materials and things may be enforced by a notice issued by the Registrar requiring the witness to attend and stating the date, time and place at which the witness is to attend and the charts, documents, papers, notes, records and other materials and things, if any, the witness is required to produce.

(2) On the written request of the investigated person or of the counsel or agent of the investigated person, the Registrar shall without charge issue and deliver to that person or the counsel or agent of that person any notices that the investigated person requires for the attendance of witnesses or notices for production under subsection (1).

(3) A witness, other than the investigated person, who has been served with a notice to attend or a notice for production under subsection (1) or (2) is entitled to be paid the same fees in the same manner as are payable to a witness in an action in the Court of Queen's Bench.

Failure to attend
or to give
evidence

42(1) Proceedings for civil contempt of court may be brought against a witness

- (a) who fails
 - (i) to attend before the Discipline Committee in compliance with a notice to attend, or
 - (ii) to produce any charts, documents, papers, notes, records, and other materials or things in compliance with a notice to produce them,

or

- (b) who refuses to be sworn or to answer any question he is directed to answer by the Discipline Committee.

(2) If the witness referred to in subsection (1) is the investigated person, the failure or refusal may be held to be professional misconduct.

Hearing in
absence of
investigated
person

43 The Discipline Committee, on proof of service on the investigated person of the notice of hearing, may

- (a) proceed with the hearing in the absence of the investigated person, and
- (b) act, decide or report on the matter being heard in the same way as though the investigated person were in attendance.

Findings of
Committee

44(1) The Discipline Committee may find that the conduct of an investigated person constitutes neither unskilled practice of psychology nor professional misconduct.

(2) The Discipline Committee may find that the conduct of an investigated person constitutes unskilled practice of psychology or professional misconduct or both and shall deal with the investigated person in accordance with this Part.

Orders of
Committee

45(1) If the Discipline Committee finds that the conduct of an investigated person constitutes unskilled practice of psychology or professional misconduct or both, the Committee may make any one or more of the following orders:

- (a) reprimand the investigated person;
- (b) suspend the registration of an investigated person either generally or from any field of the practice of psychology for a stated period;
- (c) suspend the registration of an investigated person either generally or from any field of the practice of psychology until
 - (i) the investigated person has completed a specific course of studies or obtained supervised practical experience, or
 - (ii) the Committee is satisfied as to the competence of the investigated person generally or in a specified field of the practice of psychology;
- (d) accept in place of a suspension the investigated person's undertaking to limit his practice;
- (e) impose conditions on the investigated person's entitlement to engage in the practice of psychology generally or in any field of the practice, including the conditions that he
 - (i) practise under supervision,
 - (ii) not engage in sole practice,
 - (iii) permit periodic inspections by a person authorized by the Committee, or
 - (iv) report to the Committee or Council on specific matters;
- (f) direct the investigated person to pass a particular course of study or satisfy the Committee or Council as to his practical competence generally or in a field of the practice of psychology;

- (g) direct the investigated person to satisfy the Committee or the Council that a disability or addiction can be or has been overcome, and suspend the person's registration until the Committee or the Council is so satisfied;
- (h) require the investigated person to take counselling that in the opinion of the Committee or the Council is appropriate;
- (i) direct the investigated person to waive, reduce or repay a fee for services rendered by the investigated person that, in the opinion of the Committee, were not rendered or were improperly rendered;
- (j) cancel the registration of the investigated person.

(2) The Discipline Committee may make any ancillary order that is appropriate or required in connection with any order mentioned in subsection (1) or may make any other order that it considers appropriate in the circumstances including that

- (a) a further or new investigation be held into any matter,
- (b) the Discipline Committee be convened to hear a complaint without a preliminary investigation, or
- (c) a complaint be referred to any other entity having jurisdiction to review complaints.

(3) Where the Discipline Committee is satisfied that an investigated person has contravened an order under subsection (1) it may, without the necessity of a further hearing, cancel or suspend the registration of the investigated person subject to any terms or conditions it considers appropriate.

Payment of costs
and fines

46(1) The Discipline Committee may, in addition to or instead of dealing with the conduct of an investigated person in accordance with section 45, order that the investigated person pay

- (a) all or part of the costs of the hearing or appeal determined in accordance with the regulations,
- (b) a fine to the Association, not exceeding \$5000 for each finding of unskilled practice or professional misconduct and \$25 000 in the aggregate for all of such findings arising out of the hearing, or
- (c) both the costs under clause (a) and the fine under clause (b)

within the time set by the order.

(2) If the person ordered to pay a fine, costs or both under subsection (1) fails to pay the fine or costs within the time ordered, the Council may suspend the registration of that person until the fine or costs are paid.

(3) The Discipline Committee, if it finds that a complaint is frivolous or vexatious, may order the complainant to pay the costs of the preliminary investigation and the hearing before the Discipline Committee determined in accordance with the regulations.

(4) A fine or costs ordered to be paid to the Association under this section is a debt due to the Association and may be recovered by the Association by civil action for debt.

Written decision	<p>47 The Discipline Committee shall, within a reasonable time after the conclusion of a hearing before it, make a written decision on the matter in which it shall</p> <ul style="list-style-type: none"> (a) describe each finding made by it, (b) state the reasons for each finding made by it, and (c) state any order made under this Part.
Service of decision and record of hearing	<p>48(1) The Discipline Committee shall forward to the Registrar</p> <ul style="list-style-type: none"> (a) the decision, and (b) the record of the hearing, consisting of all evidence presented before it, including <ul style="list-style-type: none"> (i) all exhibits, (ii) all documents, and (iii) a transcript of all testimony given before it, whether recorded electronically, mechanically or in handwritten form. <p>(2) The Registrar shall, on receiving the decision of the Discipline Committee and the record of the hearing referred to in subsection (1), serve</p> <ul style="list-style-type: none"> (a) a copy of the decision on the investigated person, and (b) a notice of the nature of the decision on the complainant, if any.
Examination of record	<p>49 The investigated person may examine the record or any part of the record of the proceedings before the Discipline Committee and hear any recording or examine any mechanical or handwritten form of record of any testimony given before the Committee.</p>
Rehearing	<p>50 If there is new evidence available which was not available or for good reason was not presented at the hearing under section 37, the Discipline Committee may rehear any matter already heard by it under section 37 and, for that purpose, has the same power and authority and is subject to the same duties as it had and was subject to in connection with the first hearing.</p>
Stay pending appeal	<p>51(1) A decision of the Discipline Committee remains in effect pending an appeal to the Council unless the Council on application stays the decision pending the appeal.</p> <p>(2) A decision of the Council remains in effect pending an appeal to the Court of Appeal unless the Court on application stays the decision pending the appeal.</p>
Appeal to the Council	<p>52(1) An investigated person or the Association may appeal to the Council a finding or an order of the Discipline Committee.</p> <p>(2) An appeal under subsection (1) shall be commenced by a written notice of appeal, which shall</p> <ul style="list-style-type: none"> (a) describe the finding or order appealed, and (b) state the reasons for the appeal.

(3) A notice of appeal under this section shall be served on the Registrar within 30 days after the date on which the decision of the Discipline Committee is served on the investigated person, if the investigated person is appealing the decision, or on the Executive Director, if the Association is appealing the decision.

(4) The Registrar shall, on receiving a notice of appeal under subsection (3), give to each member of the Council a copy of the notice of appeal and make a record of the hearing available to each member of the Council.

Notice and
hearing of appeal

53(1) The Registrar shall, on receiving a notice of appeal under section 52, cause to be served on the investigated person a notice of hearing of an appeal stating the date, time and place at which the Council will hear the matters appealed.

(2) The Council shall,

(a) if the registration of the investigated person has been suspended under section 35 or 45 or pending the outcome of proceedings under this Part, hear the appeal within 30 days after the date of service of the notice of appeal, and

(b) if the registration of the investigated person has not been suspended, hear the appeal within 90 days after the date of service of the notice of appeal.

(3) The Council may, on the written request of the investigated person or the Association, extend the periods referred to in subsection (2) for 1 or more additional periods but,

(a) in a case to which subsection (2)(a) applies, no extension may be granted without the consent of that person, and

(b) in a case to which subsection (2)(b) applies, no extension may be for a period of more than 90 days.

Council's powers
on appeal

54(1) The Association and the investigated person may appear and be represented by counsel at the hearing of an appeal before the Council.

(2) A member of the Discipline Committee who is also a member of the Council may participate in an appeal before the Council but shall not vote in a decision of the Council on the appeal.

(3) The appeal to the Council shall be founded on a copy of the record of the proceedings before the Discipline Committee and on the decision and order of the Committee.

(4) Sections 39 to 43 apply to proceedings before the Council.

(5) The Council on an appeal may

(a) grant adjournments of the proceedings or reserve the determination of the matters before it for a future meeting of the Council,

(b) on granting special leave for that purpose, receive further evidence, and

(c) draw inferences of fact and make a determination or finding that, in its opinion, ought to have been made by the Discipline Committee.

(6) The Council shall, within 90 days from the date of the conclusion of all proceedings before it, do any or all of the following:

(a) make any finding that in its opinion ought to have been made by the Discipline Committee,

(b) quash, vary or confirm the finding or order of the Committee or substitute or make a finding or order of its own, or

(c) refer the matter back to the Committee for further consideration in accordance with any direction that the Council may make.

(7) The Council may make any award as to costs, whether before it or the Discipline Committee, that it considers appropriate.

Appeal to
the Court

55(1) An investigated person or the Association may appeal to the Court of Appeal any finding or order made by the Council under section 54.

(2) An appeal under this section shall be commenced

(a) by filing a notice of appeal with the Clerk of the Court at Edmonton or Calgary, and

(b) by serving a copy of the notice of appeal

(i) on the Registrar where the investigated person is the appellant, and

(ii) on the investigated person, where the Association is the appellant,

both within 30 days from the date on which the decision of the Council is served on the appellant.

Appeal on record

56(1) The appeal to the Court of Appeal shall be founded on a copy of the record of the Discipline Committee and its decision and a copy of the finding and order of the Council and any further evidence received by the Council, all of which shall be certified by the Registrar.

(2) The procedure in an appeal shall be the same, with the necessary changes, as that provided in the Alberta Rules of Court for appeals from a judgment of a judge of the Court of Queen's Bench to the Court of Appeal.

Power of Court
on appeal

57(1) The Court of Appeal on hearing an appeal may

(a) make any finding that in its opinion ought to have been made,

(b) quash, confirm or vary the order or the decision of the Council or any part of it,

(c) refer the matter back to the Discipline Committee for further consideration in accordance with any direction of the Court, or

(d) direct that a new trial of any mixed questions of law and fact relating to a finding or order or both a finding and an order of

the Council under section 54 be held before the Court of Queen's Bench.

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

Misrepresentation of status

58 The conduct of a chartered psychologist or registrant to whom this Part applies who is or was registered under this Act or the regulations, as the case may be, and who represents or holds out that he is registered and is in good standing while his registration is suspended or cancelled constitutes professional misconduct.

PART 7

REGULATIONS AND BY-LAWS

Regulations

59(1) The Council may make regulations

- (a) establishing and providing for the publication of a code of professional conduct and ethical standards respecting the practice of psychology, the maintenance of the dignity and honour of the profession of psychology and the protection of the public interest;
- (b) governing the eligibility of and, by agreement with the Universities Co-ordinating Council, the examination of applicants for registration as chartered psychologists;
- (c) respecting the requirements other than academic requirements for registration as chartered psychologists;
- (d) prescribing standards of practice for chartered psychologists and registrants;
- (e) prescribing conditions to be met before an annual certificate of registration may be granted;
- (f) respecting the establishment of a continuing education program for chartered psychologists and registrants;
- (g) respecting the registration of applicants as members of a class or category of registrants in addition to chartered psychologists;
- (h) respecting the limitations, conditions or restrictions on registrants;
- (i) respecting the renewal of the registration of registrants;
- (j) establishing specialty registers and governing the registration and removal of persons from those registers;
- (k) establishing specialties of the practice of psychology and prohibiting a chartered psychologist from holding out that he is entitled to engage in a specialty of the practice of psychology as established in the regulations unless the chartered psychologist is registered in the specialty register;
- (l) prescribing terms and conditions for registration and maintaining registration in a specialty register;
- (m) designating specialty names, initials or abbreviations that may be used by a chartered psychologist registered in a specialty register;

- (n) prescribing the academic and experience requirements a person must possess before that person may practise as a registrant;
 - (o) respecting the aspects of the practice of psychology that may be performed by a person practising as a registrant and the circumstances under which and the conditions and limitations subject to which that person may perform them;
 - (p) assigning a name or title to a class or category of registrants;
 - (q) respecting the costs payable on the conclusion of an investigation or hearing by the Discipline Committee or the Council of the Association;
 - (r) requiring chartered psychologists to carry professional liability insurance and governing the minimum coverage required to be carried;
 - (s) prescribing the number of members of the Council that constitutes a quorum of the Council;
 - (t) respecting preliminary investigations and proceedings of the Discipline Committee and the Council;
 - (u) governing the review by the Practice Review Committee of the practice of a chartered psychologist or registrant whether a complaint is made or not;
 - (v) governing the reinstatement of any person whose registration is removed, suspended, restricted or cancelled under this Act;
 - (w) respecting the publication of information with respect to the removal from the register, the suspension, cancellation or restriction of practice of a chartered psychologist or registrant;
 - (x) respecting the registration or the entry of a name in the register, the review of the practice of chartered psychologists and registrants generally, and disciplinary matters;
 - (y) delegating any power or duty of the Council under this Act to a person, board or committee designated by the Council.
- (2) A regulation under subsection (1) does not come into force unless it is approved
- (a) by a majority of chartered psychologists
 - (i) present and voting at a general meeting, or
 - (ii) voting in a mail vote conducted in accordance with the by-laws,
 - and
 - (b) by the Lieutenant Governor in Council.

By-laws

60(1) The Council may make by-laws

- (a) for the government of the Association and the management and conduct of its affairs;
- (a.1) determining the location of the head office of the Association and the form and the use of the seal of the Association;

- (b) respecting the calling and conduct of meetings of the Association and the Council and the quorum required for a meeting of the Association and a Committee established under this Act;
- (b.1) respecting the nomination, election, number and term of office of Council members, officers of the Council, chairs of standing committees, officers of the Association and any other elected positions within the Association and governing who may vote at an election or in a referendum;
- (c) providing for the election or appointment of persons to fill vacancies in the Council or in any other elected positions within the Association or any other office;
- (c.1) governing the appointment of individuals as members, acting members, or ex officio members of the Council, the Association and any board or committee established by or under this Act in addition to any appointments required to be made by this Act, and prescribing their terms of office, duties and functions and the means of their removal from office, should it become necessary;
- (d) governing the composition, internal management and operation and the conduct of proceedings of any committee established by or under this Act, or delegating to the committee the authority to govern its internal management and operation, with or without conditions;
- (d.1) establishing categories of membership in the Association in addition to chartered psychologists and registrants and prescribing the privileges and obligations of the categories of membership so established;
- (e) providing for the hiring of employees of the Association, their duties and terms and conditions of employment and the bonding of those employees;
- (e.1) providing for the tenure of the Registrar and his additional duties, powers and functions, and the appointment of an individual as Acting Registrar who has all of the powers and performs all of the duties of the Registrar under this Act, the regulations and the by-laws when the Registrar is absent or unable to act or when there is a vacancy in the office of Registrar;
- (f) establishing the office of Executive Director and providing for the appointment of a person to that office and his powers, duties and responsibilities;
- (f.1) authorizing the Executive Director or the Registrar to delegate any power or duty to another person, with or without conditions;
- (g) providing for the delegation of any powers or duties of the Council under this Act, the regulations or the by-laws with or without conditions to a committee established by the Council;
- (h) governing the establishment of boards and committees by the Council or the Association, the appointment and revocation of members of the boards and committees, the appointment of act-

ing members and procedures for filling vacancies on boards and committees, and governing their internal management and operation or delegating that authority to the board or committee, with or without conditions;

(i) prescribing fees and expenses payable to members of the Council and of any boards or committees established by or under this Act for attending to the business of the Association;

(j) respecting the establishment and payment of sums of money for seminars, courses or conferences or any educational incentive or benefit program that the Council considers appropriate;

(k) governing the use and management of the funds and property of the Association and the fiscal year of the Association;

(l) prescribing the date or dates on which annual certificates expire;

(m) respecting the fees, dues and levies payable to the Association by chartered psychologists, registrants and other members of the Association or by applicants under this Act for any service administered or provided;

(n) respecting the form, contents and maintenance of registers of registrants and of records of other categories of membership to be kept by the Registrar;

(o) governing the form, contents and operation of the register of chartered psychologists and the establishment, form, contents and operation of a historical record of members and former members of the Association and prescribing who is entitled to inspect the record so established and other matters relating to the confidentiality of that record;

(p) prescribing the manner of proof as to matters required by this Act to be proven by applicants for registration;

(q) respecting the removal from the registers and records of a memorandum or entry made in them under this Act;

(r) authorizing the Council to prescribe the form of a certificate of registration, an annual certificate and any other document that may be required;

(s) respecting the holding of votes by mail on any matter relating to the Association or its members;

(t) governing the method of approval of by-laws made under this section and the persons by whom they are to be approved;

(u) governing the conduct of referendums on any matters relating to psychology, the Association or its members;

(v) providing grants in aid of or undertaking research in psychology;

(w) promoting psychology and making the members of the profession of psychology more knowledgeable with respect to new skills, techniques and practices;

- (x) respecting the establishment of libraries, information centres and similar facilities;
 - (y) respecting the publication, distribution or production of books, newsletters, reports, pamphlets, magazines, journals, films and other means of communication;
 - (z) providing for the establishment, publication and distribution of suggested schedules of fees for services performed by a chartered psychologist or registrant.
- (2) A by-law under subsection (1) does not come into force unless it is approved
- (a) by a majority of chartered psychologists
 - (i) present and voting at a general meeting, or
 - (ii) voting in a mail vote conducted in accordance with the by-laws,
 - or
 - (b) in accordance with a by-law made pursuant to subsection (1)(t).
- (3) The *Regulations Act* does not apply to the by-laws of the Association.

PART 8 GENERAL

Service of documents

61 When this Act, the regulations or the by-laws require that a document or notice be given to or served on any person, the document or notice is sufficiently given or served if it is served personally on that person or sent to him by registered mail at his address last shown on the register or record of the Registrar or, if personal service or service by mail is not reasonably possible, then by publishing the document at least twice, and not more than a week apart, in a local newspaper circulating at or near the address last shown for that person in the records of the Association.

Certificate of Registrar

62 A certificate purporting to be signed by the Registrar and stating that a named person was or was not, on a specified day or during a specified period,

- (a) a chartered psychologist or registrant, or
- (b) an officer of the Association or a member of the Council or any committee or board established by this Act, the regulations or the by-laws

shall be admitted in evidence as prima facie proof of the facts stated in it without proof of the Registrar's appointment or signature.

Protection from liability

63(1) No action lies against

- (a) any person conducting a preliminary investigation, a member of the Discipline Committee, the Practice Review Committee or

the Council, the Registrar or the Association or any person acting on the instructions of any of them, or

(b) any member, officer or employee of the Association

for anything done by him in good faith and in purporting to act under

(c) this Act,

(d) the regulations, or

(e) a by-law that relates to or is incidental to a professional matter or a matter of public interest that is or may be the subject of a regulation under section 59.

(2) No action for defamation may be founded on a communication that consists of or pertains to the conduct of a chartered psychologist or registrant if the communication is published to or by

(a) the Association,

(b) a member of the Council, the Discipline Committee or the Practice Review Committee,

(c) a person conducting a preliminary investigation,

(d) an officer or employee of the Association, or

(e) a person acting on the instruction of any person or entity referred to in clauses (a) to (d),

in good faith in the course of investigating the conduct or in the course of any proceeding under this Act relating to the conduct.

Penalties

64(1) Every person who contravenes this Act is guilty of an offence and liable

(a) for a first offence, to a fine of not more than \$2000,

(b) for a 2nd offence, to a fine of not more than \$4000, and

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

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

PART 10

TRANSITIONAL, CONSEQUENTIAL AND REPEAL

**Registration
continued**

65(1) *In this Part, "former Act" means the Psychologists Act, chapter P-25 of the Revised Statutes of Alberta 1980.*

(2) *An individual who is registered as a certified psychologist under the former Act is deemed to be registered as a chartered psychologist under this Act.*

**Council
continued**

66 *The members of the council elected under the former Act are deemed to be members of the Council under this Act, elected for the same period and holding the same offices.*

Application for
registration
continued

67 *An application for registration made but not concluded before the coming into force of this Act shall be dealt with under the former Act as though this Act had not come into force.*

Discipline
proceedings
continued

68(1) *Any complaint made or discipline proceedings that were commenced but not concluded before the coming into force of this Act shall be dealt with under the former Act as though this Act had not come into force.*

(2) Any complaint made or discipline proceedings commenced after the coming into force of this Act when the complaint or proceedings relate to conduct occurring all or partly before the coming into force of this Act shall be dealt with under this Act.

Repeal

69 *The Psychologists Act is repealed.*

Amends
RSA 1980 cD-32

70 *The Dependent Adults Act is amended in section 1(o) by striking out “Part 2 of the Psychologists Act” and substituting “the Psychology Profession Act”.*

Coming
into force

71 *This Act comes into force on Proclamation.*