

1986 BILL 34

First Session, 21st Legislature, 35 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 34

HEALTH DISCIPLINES AMENDMENT ACT, 1986

HON. DR. REID

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 34

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1986

HEALTH DISCIPLINES AMENDMENT ACT, 1986

(Assented to , 1986)

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

- 1 The Health Disciplines Act is amended by this Act.*
- 2 Section 2 is amended by adding the following after subsection (2):*
(2.1) Notwithstanding subsections (2) and (5), a person who is registered under section 12(1.1) shall not perform any health services referred to in subsection (2) or (5) unless he is also registered under section 12(1).

Explanatory Notes

1 This Bill will amend chapter H-3.5 of the Revised Statutes of Alberta 1980.

2 Section 2 presently reads:

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

(a) the name of a designated health discipline, alone or in combination with other words, in a manner so as to express or imply that he is entitled to practise in that designated health discipline, 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 discipline 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) Nothing in this Act shall be construed to affect or restrict

(a) the right of a person who operates

(i) an approved hospital as defined in the Hospitals Act,

(ii) a nursing home as defined in the Nursing Homes Act,

(iii) an institution or facility or under a program operated or approved by the Minister of Social Services and Community Health

to prescribe the duties, whether in accordance with a collective agreement or otherwise, of his employees who are registered members of a designated health discipline, or

(b) the right of an employee who is a registered member of a designated health discipline to perform duties prescribed as mentioned in clause (a).

(4) Subject to section 4(1.1), this Act does not apply to a person who is entitled to practise a health discipline pursuant to any other Act.

(5) Nothing in this Act or the regulations shall be construed to prevent a registered member of a designated health discipline from performing health

3 *Section 3(1)(b) is amended by striking out “6 but not more than 8” and substituting “4 but not more than 6”.*

4 *The following is added after section 4:*

4.01(1) The Minister may establish an advisory committee to provide advice to the Board relating to matters set out in section 4(4) with respect to an investigation under section 4 and relating to regulations made under section 27.

(2) The Minister may, with respect to an advisory committee established under this section,

- (a) appoint or provide for the manner of the appointment of its members,
- (b) prescribe the term of office of any member,
- (c) designate a chairman, vice-chairman and secretary, and
- (d) authorize, fix and provide for the payment of remuneration and expenses to its members.

5 *Section 7.6(2) is amended by striking out “Part 4” and substituting “Parts 4 and 5”.*

6 *Section 11 is amended*

(a) *by adding the following after subsection (1):*

(1.1) The Registrar shall establish and maintain, in accordance with the by-laws, a register for honorary members of a designated health discipline if the by-laws of the health discipline association provide for the register.

(b) *in subsection (2) by striking out “register” and substituting “registers”.*

7 *Section 12 is amended by adding the following added after subsection (1):*

(1.1) Subject to subsection (2), a person may be registered as an honorary member of a designated health discipline if he meets the qualifications and conditions prescribed in the by-laws of the health discipline association.

services that are not prescribed for the designated health discipline of which he is a member if those health services are rendered in an emergency and without gain or reward or hope of gain or reward.

3 Section 3(1) presently reads:

3(1) There is hereby established a board called the Health Disciplines Board consisting of not more than 9 members appointed, each for a term not exceeding 3 years, by the Lieutenant Governor in Council as follows:

(a) 2 persons who are members of the College of Physicians and Surgeons of Alberta and 1 person who is a member of The Alberta Dental Association;

(b) at least 6 but not more than 8 other persons.

4 Advisory Committee.

5 Section 7.6(2) presently reads:

(2) The conduct and competency committee has, with all necessary modifications, the powers and duties of a Committee under Part 4.

6 Section 11 presently reads:

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

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

(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, the Committees and the health discipline associations.

7 Section 12 presently reads:

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

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

(b) is of good character and reputation, and

(c) has paid the fees prescribed in

(i) the regulations, if the designated health discipline is governed by a Committee, or

(ii) the by-laws, if the designated health discipline is governed by a health discipline association.

8 *Section 20(5) is amended by striking out “to whom it is directed” and substituting “whose conduct is the subject of a complaint, and on any other registered member of the same designated health discipline who, in the opinion of the chairman, has knowledge respecting the subject matter of the hearing.”.*

9 *Section 24 is amended*

(a) by repealing subsection (3) and substituting the following:

(3) The Board may, on reviewing an order to which section 23(3) applies, confirm, reverse or vary the Committee’s order under section 20(9).

(3.1) The Board may, on reviewing a Committee’s advice to which section 23(1) applies or an order to which section 23(2) applies, determine whether the Committee made an error in any finding of fact, and

(a) if the Board determines that the Committee did not make an error in any finding of fact, it shall confirm the Committee’s decision, or

(b) if the Board determines that the Committee made an error in any finding of fact, the Board shall refer the matter back to the Committee for further review by it.

(3.2) The Committee, on review of a matter referred back to it by the Board, may confirm, reverse or vary its original decision.

(b) in subsection (4)(a) by adding “and the Committee” after “applicant”.

(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 practise in the health discipline, or his conduct in practising the health discipline, the person is not entitled outside of Alberta to practise in the health discipline, either temporarily or permanently.

(3) The Board may approve the registration of a person who is not entitled to practise in a health discipline outside Alberta as a result of the 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 practise in the health discipline within the meaning of this Act or the regulations, of a registered member of a designated health discipline, and

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

8 Section 20(5) and (6) presently read:

(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.

9 Section 24 presently reads:

24(1) The Board

(a) on a review under section 23(4), shall dispose of the matter reviewed in accordance with section 20(1);

(b) on conducting a hearing on a complaint under section 23(5), shall comply with section 20(2);

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

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

(2) 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.

(3) The Board may, on reviewing a Committee's advice to which section 23(1) applies or an order to which section 23(2) or (3) applies, confirm, reverse or vary the decision of the Committee.

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

(a) in the case of a review to which section 23(1) or (2) applies, the applicant, and

10 Section 25 is amended

(a) in subsection (1) by striking out “section 24” and substituting “section 24(3)”;

(b) by adding the following after subsection (1):

(1.1) A party to proceedings before the Board under section 24(3.1) may within 30 days of the date of the service of the decision

(a) of the Board under section 24(3.1)(a), or

(b) of the Committee under section 24(3.2)

appeal to the Court of Queen’s Bench by way of originating notice.

(c) in subsection (2)

(i) by repealing clause (a) and substituting the following:

(a) in the case of an appeal

(i) under section 24(3) or (3.1)(a) name the Board as the respondent, or

(ii) under section 24(3.2) name the Committee as the respondent;

(ii) in clause (c) by striking out “Board” wherever it occurs and substituting “respondent”.

11 Section 26(1) is amended in clauses (a) and (b) by striking out “Board” wherever it occurs and substituting “respondent”.

12 Section 27(1)(e) is amended by striking out “section 11” and substituting “section 11(1)”.

13 Section 28.1(1) is amended by adding the following after clause (l):

(l.1) respecting a register to be kept under section 11(1.1);

(l.2) respecting qualifications and conditions to be met by candidates for registration as honorary members;

(b) in the case of an order to which section 23(3) 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.

10 Section 25 presently reads:

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.

11 Section 26 presently reads:

26(1) The Court, on 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.

12 Section 27(1) presently reads in part:

27(1) The Board may make regulations

(e) respecting registers to be kept under section 11;

13 By-law making powers.

14 The Schedule is amended

(a) by striking out “Occupations” and substituting “Disciplines”;

(b) by striking out “occupations” wherever it occurs and substituting “disciplines”;

(c) in clause (b) by striking out “Technologists” and substituting “Therapists”;

(d) by adding the following after clause (c):

(c.1) Psychiatric Nurses.

15 The Psychiatric Nurses Association Act and the Psychiatric Nursing Training Act are repealed.

16 The Schedule of the Legislative Assembly Act is amended in Part 3 by striking out “Advisory Committee under the Psychiatric Nursing Training Act”.

17 Sections 14(d), 15 and 16 come into force on Proclamation.

14 The proclaimed Schedule presently reads:

SCHEDULE

Designated Health Occupations

The following health occupations are designated as health occupations for the purposes of this Act:

(a) Emergency Medical Technicians;

(b) Respiratory Technologists;

(c) Medical Radiation Technologists.

15 Repeal.

16 Consequential

17 Coming into force.