

1990 BILL 45

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Second Session, 22nd Legislature, 39 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 45

**PROFESSIONAL STATUTES  
AMENDMENT ACT, 1990**

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MRS. MIROSH

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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*Bill 45*  
*Mrs. Mirosh*

## **BILL 45**

1990

### **PROFESSIONAL STATUTES AMENDMENT ACT, 1990**

*(Assented to* \_\_\_\_\_ *, 1990)*

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

#### **Nursing Profession Act**

*1(1) The Nursing Profession Act is amended by this section.*

*(2) Section 1(f) is amended by striking out “and includes the administration of any drug or medicine, as defined in the Pharmaceutical Association Act, that is permitted by law to be prescribed and administered to a person”.*

#### **Occupational Therapy Profession Act**

*2(1) The Occupational Therapy Profession Act is amended by this section.*

## **Explanatory Notes**

### **Nursing Profession Act**

**1(1)** This section will amend chapter N-14.5 of the Statutes of Alberta, 1983.

(2) Section 1(f) presently reads:

*1 In this Act,*

*(f) "exclusive nursing practice" means the application of professional nursing knowledge for compensation for the purpose of*

*(i) caring for physically or mentally ill persons, or*

*(ii) caring for and assessing the health of well persons,*

*and includes the administration of any drug or medicine, as defined in the Pharmaceutical Association Act, that is permitted by law to be prescribed and administered to a person;*

### **Occupational Therapy Profession Act**

**2(1)** This section will amend chapter O-2.5 of the Statutes of Alberta, 1987.

*(2) Section 12(1)(a) is amended by striking out “or” at the end of subclause (i), by adding “or” at the end of subclause (ii) and by adding the following after subclause (ii):*

*(iii) the applicant has graduated from a 3-year program in occupational therapy in Canada and immediately before the application was practising occupational therapy in a Canadian province other than Alberta,*

*(3) Section 32 is amended by striking out “31(5)” and substituting “31(4)”.*

*(4) Section 36(3) is repealed and the following is substituted:*

*(3) A hearing before the Discipline Committee shall be open to the public unless*

*(a) the complainant requests that the hearing be held in private because of the confidential nature of the matters to be heard, or*

*(b) in the opinion of the Discipline Committee, the interests of any person other than the investigated person would be detrimentally affected if the hearing were not held in private.*

*(5) Section 54 is amended by adding the following after subsection (5):*

(2) Section 12(1)(a) presently reads:

*12(1) An application for registration as an occupational therapist shall be approved by the Registrar if the applicant*

*(a) produces documentation satisfactory to the Registrar that shows that*

*(i) the applicant has obtained an undergraduate degree in occupational therapy from an approved occupational therapy education program, or*

*(ii) the Universities Co-ordinating Council is satisfied that the applicant's academic qualifications are substantially equivalent to an undergraduate degree in occupational therapy from an approved occupational therapy education program,*

(3) Section 32 presently reads:

*32 The Registrar or the member of the Discipline Committee to whom a report is provided under section 31(5) shall forthwith*

*(a) direct that no further action be taken, if he is of the opinion that*

*(i) the complaint is frivolous or vexatious, or*

*(ii) there is insufficient evidence of unskilled practice of occupational therapy or professional misconduct,*

*or*

*(b) refer the matter under investigation in writing to the Discipline Committee.*

(4) Section 36(3) presently reads:

*(3) Proceedings before the Discipline Committee or the Council shall be held in private.*

(5) Section 54 presently reads:

**(5.1) A hearing before the Council shall be open to the public unless, in the opinion of the Council, the interests of any person other than the investigated person would be detrimentally affected if the hearing were not held in private.**

*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 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 all or any 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 Discipline Committee or substitute or make a finding or order of its own, or*

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

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

*(8) The Council shall, within a reasonable time after the conclusion of the proceedings before it, give its decision in writing, in which it shall*

*(a) describe each finding made by it,*

*(b) state the reasons for each finding, and*

### **Pharmaceutical Association Act**

*3(1) The Pharmaceutical Association Act is amended by this section.*

*(2) Section 59 is amended*

*(a) by renumbering it as section 59(1);*

*(b) in subsection (1)(a) by adding “on the prescription” after “manufacturer”;*

*(c) in subsection (1)(b) by striking out “that no equivalent is to be” and substituting “in his own original handwriting that no generic or brand name equivalent may be”;*

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

*(2) No action may be commenced against a pharmaceutical chemist for dispensing a drug that is the generic or brand name equivalent of the drug named in the prescription unless the prescriber has indicated in accordance with subsection (1) that no drug other than the drug specified in the prescription may be dispensed.*

### **Pharmaceutical Profession Act**

*4(1) The Pharmaceutical Profession Act is amended by this section.*

*(2) Section 88 is amended*

*(a) by renumbering it as section 88(1);*

*(b) in subsection (1)(b) by adding “in his own original handwriting” after “specifying”;*

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



*(c) state any order made by it*

*and shall forward the decision to the Registrar.*

*(9) The Registrar shall serve*

*(a) a copy of the decision on the investigated person and the Council, and*

*(b) a notice of the decision on the complainant, if any.*

### **Pharmaceutical Association Act**

**3(1)** This section will amend chapter P-7 of the Revised Statutes of Alberta 1980.

**(2)** Section 59 presently reads:

*59 When a prescription refers to a drug or drug combination by a brand name or a name other than its generic name, a pharmaceutical chemist, in dispensing the prescription, may use a drug or drug combination that is the generic or brand name equivalent of that named in the prescription unless the prescriber indicates otherwise*

*(a) by designating the name of the manufacturer, or*

*(b) by specifying that no equivalent is to be dispensed.*

### **Pharmaceutical Profession Act**

**4(1)** This section will amend chapter P-7.1 of the Statutes of Alberta, 1988.

**(2)** Section 88 presently reads:

*88 If a prescription refers to a drug or drug combination by a brand name or a name other than its generic name, the pharmacist or restricted practitioner who dispenses the prescription may dispense a drug or drug combination that is the generic or brand name equivalent of that named in the prescription, unless the prescriber indicates otherwise*

*(a) by designating the name of the manufacturer on the prescription, or*

(2) No action may be commenced against a pharmacist or licensee for dispensing a drug that is the generic or brand name equivalent of the drug named in the prescription unless the prescriber has indicated in accordance with subsection (1) that no drug other than the drug specified in the prescription may be dispensed.

### **Physical Therapy Profession Act**

*5(1) The Physical Therapy Profession Act is amended by this section.*

*(2) Section 3(1) is repealed.*

*(3) Section 5 is repealed.*

*(4) Section 20 is amended by adding the following after subsection (2):*

(3) Subject to this Act, no person except a physical therapist shall use the name “physical therapy” or “physiotherapy” or any abbreviation of those words alone or in combination with any other word to describe or refer to his practice, occupation, profession or business.

*(b) by specifying that no generic or brand name equivalent may be dispensed.*

### **Physical Therapy Profession Act**

5(1) This section will amend chapter P-7.5 of the Statutes of Alberta, 1984.

(2) Section 3(1) presently reads:

*3(1) Subject to the provisions of this or any other Act entitling a person to practise a science, therapy or system of practice, a person is guilty of an offence who, not being a physical therapist, a registered practitioner or a physical therapy corporation, practises or holds out or represents that he is entitled to practise physical therapy.*

(3) Section 5 presently reads:

*5 After the Minister has consulted with the Council and on the Minister's recommendation, the Lieutenant Governor in Council may exempt a person or class of persons from the application of section 3(1) subject to any terms and conditions imposed by the Lieutenant Governor in Council.*

(4) Section 20 presently reads:

*20(1) Subject to this Act, no person except a physical therapist shall*

*(a) use the name "physical therapist" or any other name or any abbreviation of those words alone or in combination with any other word, or*

*(b) use the initials "P.T." or any other initials either alone or in combination with any other word, letter, symbol, initial or abbreviation except in "B.Sc.P.T." when designating a degree referred to as a Bachelor of Science in Physical Therapy or "B.P.T." when designating a degree referred to as a Bachelor of Physical Therapy,*

*that represent expressly or by implication that he is a physical therapist or use any title, name, description, abbreviation, letter or symbol representing the name "physical therapist" or the letters "P.T."*



*(2) No person, except a physical therapist, shall represent or hold out, expressly or by implication, that he is a physical therapist.*