

1991 BILL 4

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 4

SOCIAL WORK PROFESSION ACT

MRS. MIROSH

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 4
Mrs. Mirosch

BILL 4

1991

SOCIAL WORK PROFESSION ACT

(Assented to , 1991)

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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 social work program” means a social work program designated as an approved social work program under section 11;
- (b) “Association” means the Alberta Association of Social Workers;
- (c) “by-laws” means by-laws of the Council made pursuant to section 62;
- (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 Review Board” means the Practice Review Board established under this Act;

- (h) "registered social worker" means a person who is registered as a registered social worker under this Act and who holds an annual certificate;
- (i) "Registrar" means the Registrar appointed under section 8;
- (j) "Universities Co-ordinating Council" means the Universities Co-ordinating Council established under the *Universities Act*.

PART 1

EXCLUSIVE USE OF TITLE

Exclusive use of title **2(1)** No person except a registered social worker shall

- (a) use the title "registered social worker" or any other title prescribed in the regulations or an abbreviation of any of those titles alone or in combination with any other word, or
- (b) use the initials "R.S.W." or any other initials either alone or in combination with any other word, letter, symbol, initial or abbreviation, except when designating a degree,

to represent expressly or by implication that the person is a registered social worker, or use any title, name, description, abbreviation, letter or symbol representing the title "registered social worker" or the initials "R.S.W."

(2) A title prescribed in the regulations must contain the word "registered" as the first word of the title.

(3) No person except a registered social worker shall represent or hold out expressly or by implication that he is a registered social worker.

Injunction **3** 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

ALBERTA ASSOCIATION OF SOCIAL WORKERS

- Association** **4(1)** The Alberta Association of Social Workers is hereby continued as a corporation.
- (2)** The Association has the capacity and, subject to this Act, the rights, powers and privileges of a natural person.
- Council** **5(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 of and on behalf of the Association.
- (3)** The Council shall submit to the Minister an annual report on the matters of the business and affairs of the Association that the Minister requires in a form satisfactory to him.
- (4)** 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 Council** **6(1)** The Council shall consist of
- (a)** not fewer than 6 members of the Association elected in accordance with the by-laws, and
- (b)** when the number of persons elected under clause (a) is not more than 10, 2 members of the public or, when the number of persons elected under clause (a) is more than 10, 3 members of the public, who shall be appointed by the Lieutenant Governor in Council.
- (2)** A member of the Council appointed under subsection (1)(b) may hold office for not more than 6 years.
- (3)** The Minister shall pay to a member of the Council appointed under subsection (1)(b) fees in an amount determined by the Minister and travelling and living expenses incurred by that member for his attendance at a meeting of the Council away from his usual place of residence.

(4) The Lieutenant Governor in Council may revoke the appointment of a member of the Council appointed under subsection (1)(b).

(5) The powers, duties and operations of the Council are not affected by

- (a) the fact that no member is appointed under subsection (1)(b),
- (b) the revocation of the appointment of a member of the public, or
- (c) the resignation from the Council of a member of the public.

(6) The failure of a member appointed under subsection (1)(b) to attend a meeting of the Council shall not be construed as affecting or restricting the Council in exercising any powers or performing any duties at that meeting.

PART 3

REGISTRATION

Register **7** The Council shall establish a register of registered social workers.

Registrar **8** The Council shall appoint a Registrar for the purposes of this Act.

Duties of Registrar **9(1)** The Registrar shall maintain, subject to the direction of the Council, a register of registered social workers and any other registers established in accordance with the regulations.

(2) The Registrar shall, during regular office hours, permit any person to inspect a register referred to in subsection (1).

(3) The Registrar shall consider an application for the registration of an applicant as a registered social worker and may

- (a) approve the registration,
- (b) refuse to approve the registration, or

- (c) defer the approval of registration until the applicant has obtained further practical experience of a kind and for a period set by the Universities Co-ordinating Council.

Decision of Registrar and review

10(1) The Registrar shall send a written notice of a decision made by him to the applicant within 60 days of receipt of the application.

(2) If the decision of the Registrar is to refuse or defer registration of the applicant, reasons for the decision shall be sent in writing to the applicant.

(3) An applicant whose application for registration is refused or deferred may, within 30 days of receiving a notice of refusal or deferral, 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 social worker should be approved.

(4) The Council shall, after receipt of a request for review under subsection (3), review the applicant's application for registration.

(5) An applicant who requests a review under subsection (3)

- (a) shall be notified in writing by the Council of the date, which shall be established within 60 days of receipt of the request for review, and the 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.

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

Authority of Universities Co-ordinating Council

11(1) The Universities Co-ordinating Council may grant to and withdraw from an academic institution the designation "approved social work program".

(2) During the 2 years after this Act comes into force, the Minister may, in consultation with the Universities Co-ordinating Council, grant to and withdraw from an academic institution the designation "approved social work program".

(3) A grant or withdrawal of a designation under subsection (1) or (2) is subject to the approval of the Lieutenant Governor in Council.

(4) The Universities Co-ordinating Council shall

- (a) set the term of practical experience to be completed by applicants for registration as registered social workers,
- (b) approve the examination, if any, to be passed by applicants for registration as registered social workers,
- (c) set the requirements that must be met by applicants who wish to be registered in a specialty established under the regulations, and
- (d) if an applicant for registration as a registered social worker has not obtained an undergraduate degree in social work from an approved social work program, assess the applicant's academic qualifications and practical experience to determine whether they are substantially equivalent to the qualifications required for that degree or are otherwise suitable to enable the applicant to practise as a registered social worker.

Application
for
registration

12(1) An application for registration as a registered social worker 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 social work from an approved social work program, or
 - (ii) the Universities Co-ordinating Council is satisfied that the applicant has a combination of academic qualifications and practical experience that is substantially equivalent to the qualifications required for an undergraduate degree in social work from an approved social work program or that is otherwise suitable to enable the applicant to practise as a registered social worker,
- (b) has completed any term of practical experience set by the Universities Co-ordinating Council,
- (c) has passed the examination, if any, approved by the Universities Co-ordinating Council, and
- (d) meets the character and other requirements prescribed in the regulations.

(2) Notwithstanding subsection (1), the Registrar shall approve an application for registration as a registered social worker if the applicant

- (a) produces documentation satisfactory to the Registrar showing that he was eligible for membership in the Association as a registered social worker on the date on which this Act came into force, and
- (b) applies under this Act for registration as a registered social worker within 2 years after this Act comes into force.

Registration

13(1) The Registrar shall enter in the register of registered social workers the name of a person

- (a) whose application for registration as a registered social worker has been approved under this Act, and
- (b) who has paid the fees prescribed by the by-laws.

(2) On entering the name of a person in the register of registered social workers, the Registrar shall issue a certificate of registration to him.

Annual certificate

14(1) A registered social worker shall pay the annual fee prescribed by the by-laws to the Registrar or to any person authorized by the Registrar to accept payment of the fee.

(2) The Registrar shall issue an annual certificate in the form prescribed by the Council to a registered social worker

- (a) whose registration is not under suspension or cancelled,
- (b) who meets any requirements or conditions prescribed in the regulations for the issuance of an annual certificate, and
- (c) who has paid the fees prescribed by the by-laws.

(3) Subject to this Act, an annual certificate entitles a registered social worker to practise social work as a registered social worker during the year for which the annual certificate is issued.

PART 4

SUSPENSION AND CANCELLATION

Suspension and cancellation	<p>15(1) The certificate of registration or annual certificate of a registered social worker is suspended when a decision to suspend the certificate of registration or annual certificate is made in accordance with this Act.</p> <p>(2) The Registrar shall, after a decision to suspend a certificate of registration or an annual certificate has been made, enter a memorandum of the suspension in the appropriate register, indicating</p> <ul style="list-style-type: none">(a) the period of the suspension, and(b) the reason for the suspension. <p>(3) The certificate of registration or annual certificate of a registered social worker is cancelled when a decision to cancel the certificate of registration or annual certificate is made in accordance with this Act.</p> <p>(4) The Registrar shall, after a decision to cancel a certificate of registration or an annual certificate has been made, enter a memorandum of the cancellation in the appropriate register, indicating</p> <ul style="list-style-type: none">(a) the date of the cancellation, and(b) the reason for the cancellation. <p>(5) The Registrar shall not remove from the register any memorandum made by him under subsection (2) or (4) except in accordance with the by-laws.</p>
Cancellation by request	<p>16(1) The Registrar shall not cancel the registration of a registered social worker at his request unless the request for the cancellation has been approved by the Council.</p> <p>(2) When a request for the cancellation of registration is approved by the Council, the Registrar shall cancel that registration and enter a memorandum to that effect in the appropriate register.</p>
Cancellation	<p>17(1) The Council may direct the Registrar to cancel, in accordance with subsection (2), the certificate of registration or annual certificate of a registered social worker who defaults in the</p>

payment of any fee, penalty, cost, dues or levy payable under this Act, the regulations or the by-laws.

(2) The Registrar may cancel a certificate of registration or an annual certificate if the default referred to in subsection (1) continues for more than 30 days after the service on the registered social worker of a notice in accordance with subsection (3).

(3) The notice under subsection (2) shall state that the Registrar may cancel a certificate of registration or an annual certificate unless the fee, penalty, cost, dues or levy is paid as indicated in the notice.

(4) 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 appropriate register a registration that was cancelled under subsection (2), and
- (b) to re-issue a certificate of registration or an annual certificate, as the case may be.

(5) The Council may direct the Registrar to cancel a registration made in error.

(6) If the certificate of registration or annual certificate of a registered social worker has been cancelled under this Act, the registered social worker shall surrender to the Registrar the certificate of registration or annual certificate, as the case may be.

Duty of Registrar

18 If the registration of a registered social worker has been suspended or cancelled or the practice of a registered social worker has been limited by the Practice Review Board, Discipline Committee, Council or Court of Appeal, the Registrar shall notify the employer of the registered social worker of the suspension, cancellation or limitation.

Notice to Minister

19 The Registrar shall notify the Minister in writing forthwith on

- (a) the cancellation or suspension of the certificate of registration or annual certificate of a registered social worker, and

- (b) the reinstatement or other termination of suspension of a cancelled or suspended certificate of registration or annual certificate.

Falsely
obtained
registration

20(1) If the Council is satisfied, after a hearing on the matter, that a registration in a register established under this Act or the regulations was obtained by means of any false or fraudulent representation or declaration, either oral or written, the Council may order that the registration be cancelled, and the certificate of registration or annual certificate, as the case may be, shall be surrendered to the Registrar.

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

Misrepresent
ation of
status

21 The conduct of a registered social worker who is or was registered under this Act and represents or holds out that he is registered and is in good standing while his registration is suspended or cancelled constitutes professional misconduct.

PART 5

PRACTICE REVIEW BOARD

Practice
Review Board

22 There is hereby established a Practice Review Board consisting of not fewer than 4 members of the Association appointed by the Council in accordance with the by-laws.

Powers of the
Board

23(1) The Practice Review Board

- (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 academic requirements and practical experience that are conditions precedent to continuing registration under this Act,
 - (ii) the evaluation of desirable standards of competence of registered social workers generally,
 - (iii) any other matter that the Board 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 social work under this Act and the regulations, and

(iv) the practice of social work generally,
and

(b) may conduct, in accordance with this Act and the regulations, a review of the practice of a registered social worker.

(2) Sections 38 to 42 apply to any matter referred to or initiated by the Practice Review Board as if that Board were the Discipline Committee.

(3) The Practice Review Board may conduct or appoint a person or persons to conduct a preliminary investigation into the practice of a registered social worker and shall, in writing, notify the registered social worker that an investigation will be conducted.

(4) Section 30(1) and (3) apply to an investigation under subsection (3) as if it were a preliminary investigation.

Duties on
conclusion of
inquiry or
review

24(1) After each inquiry or review under section 23, the Practice Review Board

(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,

(c) may make recommendations to a registered social worker as to his conduct in the practice of social work, and

(d) if it is of the opinion that the conduct of a registered social worker constitutes or may constitute either unskilled practice of social work or professional misconduct within the meaning of section 27,

(i) shall forthwith refer the conduct to the Registrar for an investigation under Part 6, and in that case the Registrar shall deal with the referral as if it were a complaint, and

- (ii) may, if it makes a referral under subclause (i), recommend to the president of the Association that the certificate of registration or annual certificate, or both, of the registered social worker be temporarily suspended pending the outcome of proceedings under Part 6.

(2) On receiving a recommendation under subsection (1)(d)(ii), the president may suspend the certificate of registration or annual certificate accordingly.

(3) The registered social worker may, by filing an originating notice with the Court of Queen's Bench and serving a copy on the chairman of the Practice Review Board, apply for an order of the Court staying the decision of the president.

PART 6

DISCIPLINE

- Definitions** **25** In this Part,
- (a) "chairman" means the chairman of the Discipline Committee and includes a vice-chairman;
 - (b) "conduct" includes any act or omission;
 - (c) "investigated person" means a registered social worker, or in a case to which section 28(3) applies a former registered social worker, with respect to whose conduct an investigation or hearing is held under this Part.
- Discipline Committee** **26(1)** There is hereby established a Discipline Committee consisting of
- (a) not fewer than 4 members of the Association appointed by the Council in accordance with the by-laws, and
 - (b) one member of the public appointed by the Lieutenant Governor in Council.
- (2) The member of the Discipline Committee appointed under subsection (1)(b) may hold office for not more than 6 years.
- (3) The Minister shall pay to the member of the Discipline Committee appointed under subsection (1)(b) fees in an amount determined by the Minister and travelling and living expenses

incurred by that member for attendance at a hearing of the Committee away from his usual place of residence.

(4) The Lieutenant Governor in Council may revoke the appointment of the member of the Discipline Committee appointed under subsection (1)(b).

(5) The powers, duties and operations of the Discipline Committee are not affected by

- (a) the fact that no member is appointed under subsection (1)(b),
- (b) the revocation of the appointment of the member of the public, or
- (c) the resignation from the Committee of the member of the public.

(6) The failure of the member appointed under subsection (1)(b) to attend a meeting of the Committee shall not be construed as affecting or restricting the Committee in exercising any powers or performing any duties at that meeting.

Unskilled
practice or
professional
misconduct

27(1) Any conduct of a registered social worker that, in the opinion of the Discipline Committee,

- (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 social work generally, or
- (d) displays a lack of knowledge of or lack of skill or judgment in the practice of social work,

whether or not that conduct is disgraceful or dishonourable, may constitute either unskilled practice of social work or professional misconduct, whichever the Discipline Committee finds.

(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).

Complaint **28(1)** A person may complain in writing to the Registrar about the conduct of a registered social worker, and the complaint shall be dealt with in accordance with this Part and the regulations.

(2) A complaint under subsection (1) shall be accompanied by a mailing address for service on the complainant.

(3) A complaint respecting the conduct of a registered social worker whose certificate of registration or annual certificate, as the case may be, has been cancelled or suspended pursuant to 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.

Preliminary investigation **29** The Registrar

(a) shall, in a case where a complaint in writing is made to him under section 28, forthwith on receipt of the complaint, or

(b) may, in a case where he believes the conduct of a registered social worker constitutes or may constitute unskilled practice of social work or professional misconduct,

commence or appoint a person or persons to commence a preliminary investigation into the conduct of the registered social worker and shall, in writing, notify the registered social worker that a preliminary investigation into his conduct will be conducted, giving reasonable particulars of the matter to be investigated.

Report of preliminary investigation **30(1)** A person conducting a preliminary investigation may

(a) request any person to answer any questions and to produce to him any models, 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).

(2) 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.

(3) If a registered social worker 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.

(4) A person conducting a preliminary investigation shall, forthwith on concluding the preliminary investigation, report his findings to

- (a) the Registrar, if the Registrar is not conducting the preliminary investigation, or
- (b) a member of the Discipline Committee, if the Registrar is conducting the preliminary investigation.

Referral to
Discipline
Committee

31 The Registrar or the member of the Discipline Committee to whom a report is provided under section 30(4) 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 social work or professional misconduct,

or

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

Notice

32 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.

Complain-
ant's appeal
to Discipline
Committee

33(1) A complainant who is served with a notice under section 32 that no further action will be taken may, within 30 days of the receipt of the notice, by notice in writing to the Registrar, appeal that direction to the Discipline Committee.

(2) On an appeal under subsection (1), the Discipline Committee shall determine whether

- (a) the complaint is frivolous or vexatious, or

- (b) there is sufficient evidence of unskilled practice or professional misconduct, and the matter under investigation should be the subject of a hearing,

and shall notify the complainant in writing of its decision.

Suspension
pending
decision

34(1) Notwithstanding anything in this Act, the chairman may recommend to the president of the Association that the certificate of registration or annual certificate, or both, of the registered social worker be temporarily suspended pending the outcome of proceedings under this Part, and the president may suspend the certificate of registration or annual certificate accordingly.

(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.

Rights of
investigated
person

35(1) The Association and the investigated person may appear and be represented by counsel at a hearing before the Discipline Committee.

(2) The Discipline Committee may be represented by counsel at a hearing before the Committee.

(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 may be detrimentally affected if the hearing is not held in private.

Hearing

36(1) On referral to it of a matter under section 31(b) or on determining under section 33(2)(b) that a hearing should be held, the Discipline Committee shall hold a hearing.

(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 any other period prescribed by the Council for the matter.

(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.

Further investigation

37 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 serve on that person at least 15 days before the hearing of the matter notice of its intention to do so, giving reasonable particulars of the matter to be investigated or heard.

Evidence before Discipline Committee

38(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.

(2) For the purposes of an investigation, hearing or review under this Act, the Registrar, a person appointed by him under section 29 and any member of the Council, the Discipline Committee or the Practice Review Board are conferred with the powers of a commissioner for oaths under the *Commissioners for Oaths Act*.

Witnesses

39(1) The investigated person and any other person who, in the opinion of the Discipline Committee, has knowledge of the complaint or matter being investigated is a compellable witness in any proceeding under this Part.

(2) A witness 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, in a prosecution under this Act or in any proceeding under any other Act, except in a prosecution for or proceedings in respect of perjury or the giving of contradictory evidence.

(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 to obtain the evidence of the witness, and the commission shall be issued and the evidence taken pursuant to the Rules of Court.

Attendance of witnesses and production of documents

40(1) The attendance of witnesses before the Discipline Committee and the production of models, 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 models, charts, documents, papers, notes, records and other materials and things, if any, he is required to produce.

(2) On the written request of the investigated person or of his counsel or agent, the Registrar shall without charge issue and deliver to that person or his counsel or agent any notices that he requires for the attendance of witnesses or 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 give evidence

41(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 models, 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, his failure or refusal may be held to be professional misconduct.

Hearing in absence of investigated person

42 The Discipline Committee, on proof of service on the investigated person of the notice of hearing in accordance with this Act, 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 Discipline Committee

43(1) The Discipline Committee may find that the conduct of an investigated person constitutes neither unskilled practice of social work nor professional misconduct.

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

Orders of Discipline Committee

44(1) If the Discipline Committee finds that the conduct of an investigated person constitutes unskilled practice of social work or professional misconduct, or both, the Committee may make any one or more of the following orders:

- (a) that the investigated person be reprimanded;
- (b) that the certificate of registration or annual certificate, or both, of the investigated person be suspended, either generally or with respect to any field of the practice of social work, for a stated period;
- (c) that the certificate of registration or annual certificate, or both, of the investigated person be suspended, either generally or with respect to any field of the practice of social work, until

- (i) he has completed a specified 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 that specified field of practice;
- (d) that, in place of a suspension, the investigated person undertake to limit his practice;
- (e) that conditions be imposed on the investigated person's practice of social work generally or in any field of the practice, including any of the following conditions:
- (i) that he practise under supervision;
 - (ii) that he not engage in sole practice;
 - (iii) that he permit periodic inspections by a person authorized by the Council;
 - (iv) that he report to the Committee or Council on specific matters;
- (f) that the investigated person pass a particular course of study or satisfy the Committee or Council as to his practical competence generally or in any field of the practice of social work;
- (g) that the investigated person satisfy the Committee that a disability or addiction can be or has been overcome and that the person's certificate of registration or annual certificate be suspended until the Committee is so satisfied;
- (h) that the investigated person take counselling that in the opinion of the Committee is appropriate;
- (i) that the investigated person 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) that the certificate of registration or annual certificate, or both, of the investigated person be cancelled.
- (2) The Discipline Committee may make any ancillary order that is appropriate or required in connection with any order set out in subsection (1) or may make any other order that it considers appropriate in the circumstances, including

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

(3) If 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 his certificate of registration or annual certificate, as the case may be, subject to any terms it considers appropriate and shall serve the investigated person with notice of the cancellation or suspension.

Payment of costs and fine

45(1) The Discipline Committee may, in addition to or instead of dealing with the conduct of an investigated person in accordance with section 44, order that the investigated person

- (a) pay all or part of the costs of the hearing or appeal, as determined in accordance with the regulations,
- (b) pay to the Association a fine not exceeding \$5000 for each finding of unskilled practice or professional misconduct and \$10 000 in the aggregate for all such findings arising out of the hearing, or
- (c) pay both the costs under clause (a) and the fine under clause (b)

within the time set by the order.

(2) If a person ordered to pay a fine or costs, or both, under subsection (1) fails to pay the fine or costs within the time ordered, the Council may suspend the certificate of registration or annual certificate of the person until he has paid the fine and costs and shall serve the person with notice of the suspension.

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

Written decision

46 The Discipline Committee shall, within a reasonable time after the conclusion of a hearing 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 made by it, and
- (c) state any order made under this Part.

Service of
decision and
record of
hearing

47(1) The Discipline Committee shall forward to the Registrar

- (a) the decision, and
- (b) the record of the hearing, consisting of all evidence presented before it, including
 - (i) all exhibits,
 - (ii) all documents, and
 - (iii) a transcript of all testimony given before it, whether recorded electronically, mechanically or in handwritten form.

(2) The Registrar shall, on receiving the decision of the Discipline Committee and the record of the hearing referred to in subsection (1), serve

- (a) a copy of the decision on the investigated person and on the Council, and
- (b) a notice of the decision on the complainant, if any.

Examination
of record

48 The investigated person may examine the record or any part of the record of the hearing before the Discipline Committee and hear any recording or examine any mechanical or handwritten form of record of any testimony given before the Committee.

Rehearing

49 If there is new evidence available that was not available or for good reason was not presented at the hearing under section 36, the Discipline Committee may, with the consent of the investigated person, rehear any matter already heard by it under section 36 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.

Stay pending
appeal

50(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.

(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.

**Appeal to
Council**

51(1) An investigated person or the Association may appeal to the Council a finding or an order of the Discipline Committee.

(2) An appeal under subsection (1) shall be commenced by a written notice of appeal, which shall

- (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

- (a) on the investigated person, if he is appealing the decision, or
- (b) on the Council, 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 the record of the hearing available to each member of the Council.

**Notice and
hearing of
appeal**

52(1) The Registrar shall, on receiving a notice of appeal under section 51, 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 certificate of registration or annual certificate of the investigated person has been cancelled or suspended, hear the appeal within 30 days after the date of service of the notice of appeal, and
- (b) if the certificate of registration or annual certificate of the investigated person has not been cancelled or 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 one 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

53(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 hearing before the Discipline Committee and the decision and order of the Committee.

(4) Sections 38 to 42 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) 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 may be detrimentally affected if the hearing is not held in private.

(7) The Council shall, within 90 days from 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.

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

(9) 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
- (c) state any order made by it,

and shall forward the decision to the Registrar.

(10) 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.

Appeal to
Court

54(1) An investigated person or the Association may appeal to the Court of Appeal any finding or order made by the Council under section 53.

(2) An appeal under this section shall be commenced

- (a) by filing a notice of appeal with the Registrar of the Court at Edmonton or Calgary, and
- (b) by serving a copy of the notice of appeal
 - (i) on the Council, where the investigated person is the appellant, or
 - (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 the record

55(1) The appeal to the Court of Appeal shall be founded on a copy of the record of the Council proceedings and its decision and a copy of the findings and orders 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 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

56(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 decision of the Council or any part of it,
- (c) refer the matter back to the Council for further consideration in accordance with any direction of the Court, or
- (d) direct that a trial of any mixed questions of law and fact related to a finding or order or both a finding and an order of the Council under section 53 be held before the Court of Queen's Bench.

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

PART 7

GENERAL

Recognition of order, direction or decision

57 No employer or other person shall knowingly require a registered social worker to perform a service or undertake any work that would result in the registered social worker's contravening an order, direction or decision of the Council or a court of competent jurisdiction.

Service of documents **58** 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 sent to him by single registered mail at the address last shown on the register or records of the Association or provided under section 28(2).

Certificate of Registrar **59** 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 registered social worker, or
- (b) an officer of the Association, a member of the Council or a member of a committee 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 **60(1)** No action lies against

- (a) a person conducting a preliminary investigation, the Registrar or the Association, a member of the Council or of a committee established by this Act, or any person acting on the instructions of any of them, or

- (b) a member, officer or employee of the Association,

for anything done by him in good faith and in purporting to act under this Act, the regulations or 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 61.

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

- (a) the Association,
- (b) the Registrar or a member of the Council, the Practice Review Board or the Discipline Committee,
- (c) a person conducting a preliminary investigation,
- (d) an officer or employee of the Association, or

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

in good faith in the course of an investigation or proceeding conducted under this Act in relation to the conduct.

PART 8

REGULATIONS AND BY-LAWS

- Regulations **61(1)** The Council may make regulations
- (a) respecting procedures for the registration of persons as registered social workers;
 - (b) establishing conditions, including character requirements, to be met by applicants for registration as registered social workers;
 - (c) establishing specialties in the practice of social work, establishing a register for each speciality and prescribing the titles that may be used exclusively by persons who are registered in a specialty;
 - (d) respecting registration of applicants who wish to be registered in a specialty established under clause (c);
 - (e) prescribing conditions to be met before an annual certificate is issued;
 - (f) respecting the establishment and operation by the Council of a compulsory continuing education program for registered social workers;
 - (g) respecting committees of inquiry for reinstatement under Part 4, and governing persons whose certificates of registration or annual certificates have been suspended or cancelled under this Act;
 - (h) respecting the procedures for hearings, inquiries, reviews and preliminary investigations by the Registrar or a person appointed by him, the Practice Review Board, the Discipline Committee and the Council in matters relating to the conduct or practice of social workers whether or not a complaint has been made;
 - (i) respecting the costs payable by a registered social worker on the conclusion of an investigation or hearing

by the Registrar, the Discipline Committee or the Council;

- (j) respecting reviews of the practice of a registered social worker by the Practice Review Board or the Discipline Committee or a person authorized by that Committee;
- (k) respecting the publication of a notice of the suspension or cancellation of a certificate of registration or annual certificate;
- (l) respecting the form and manner in which a reprimand may be given and respecting the publication of a reprimand;
- (m) prescribing standards for the practice of social work;
- (n) respecting the restrictions and limitations that may be imposed on advertising by registered social workers.

(2) A regulation under subsection (1) does not come into force unless it is approved by

- (a) a majority of members of the Association
 - (i) present and voting at a general meeting, or
 - (ii) voting in a mail vote conducted in accordance with the by-laws,

and

- (b) the Lieutenant Governor in Council.

(3) Notwithstanding subsections (1) and (2), the Lieutenant Governor in Council may make, amend or repeal regulations under subsection (1)(a) to (n) after consultation with the Council.

By-laws

62(1) The Council may make by-laws

- (a) for the government of the Association and the management and conduct of its affairs;
- (b) determining the location of the head office of the Association;
- (c) respecting the calling of and conduct of meetings of the Association and the Council;

- (d) respecting the nomination, election, number and term of office of Council members, other than members appointed under section 6(1)(b), and of officers of the Council and the Association;
- (e) providing for the appointment of acting members of the Council and prescribing their powers, duties and functions;
- (f) respecting, subject to this Act, the appointment of members of the Discipline Committee and the Practice Review Board, the designation of chairmen and vice-chairmen, the appointment of acting members and the procedures for filling vacancies on the Committee or the Board;
- (g) respecting the establishment, operation and proceedings of committees, the appointment of members and of acting members and procedures for filling vacancies on committees;
- (h) establishing honorary or other categories of membership in the Association and prescribing the privileges and obligations of the members in the categories;
- (i) providing for the tenure of the Registrar and his additional duties, powers and functions, and the appointment of an 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;
- (j) prescribing the number of members that constitutes a quorum at meetings of the Association, the Council, the Practice Review Board or the Discipline Committee;
- (k) providing for the delegation, with or without conditions, of any power or duty of the Council under this Act, the regulations or the by-laws, except the power to make or amend regulations or by-laws;
- (l) prescribing fees and expenses payable to members of the Council and of committees established under this Act, the regulations or the by-laws for attending to the business of the Association;
- (m) respecting the establishment of and payment of sums of money for scholarships, fellowships and any other

educational incentive or benefit program that the Association considers appropriate;

- (n) respecting the fees, dues and levies payable to the Association by registered social workers;
 - (o) respecting the removal by the Registrar from the registers of a memorandum or entry made in them under this Act, the regulations or the by-laws;
 - (p) respecting the publication of the names of applicants for registration by the Registrar;
 - (q) requiring registered social workers to maintain an address in Alberta and to inform the Registrar in writing of that address and of any change in that address forthwith after the change occurs;
 - (r) authorizing the Council to prescribe the form of a certificate of registration, an annual certificate and any other form or document that may be required for the purposes of this Act, the regulations or the by-laws;
 - (s) prescribing the date on which an annual certificate expires;
 - (t) respecting the holding of votes by mail on any matter relating to the Association;
 - (u) establishing and providing for the publishing of a code of ethics respecting the practice of social work, the maintenance of the dignity and honour of the profession of social work and the protection of the public interest.
- (2) A by-law under subsection (1) does not come into force unless it is approved by a majority of members of the Association
- (a) present and voting at a general meeting, or
 - (b) voting by means of a vote conducted by mail in accordance with the by-laws.
- (3) The *Regulations Act* does not apply to by-laws of the Association.

PART 9
PENALTIES

- Penalties **63(1)** A 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 a fine and imprisonment.
- (2)** A prosecution under this section may be commenced not later than 2 years after the commission of the alleged offence.

PART 10
TRANSITIONAL, REPEAL AND COMMENCEMENT

- Registration continued **64** *An individual who is a member of The Alberta Association of Social Workers at the time this Act comes into force is deemed to be registered as a registered social worker under this Act.*
- Officers continued **65** *The officers of The Alberta Association of Social Workers at the time this Act comes into force are deemed to be members of the Council under this Act and shall continue in office until their successors are elected or appointed.*
- Repeal **66** *The Social Workers Act is repealed.*
- Coming into force **67** *This Act comes into force on Proclamation.*