

1994 BILL 38

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Second Session, 23rd Legislature, 43 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 38

PROFESSIONAL STATUTES AMENDMENT ACT, 1994

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MR. SMITH

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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*Bill 38*  
*Mr. Smith*

## **BILL 38**

1994

### **PROFESSIONAL STATUTES AMENDMENT ACT, 1994**

*(Assented to , 1994)*

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

#### **Dental Disciplines Act**

Amends SA  
1990 cD-8.5

- 1(1) The Dental Disciplines Act is amended by this section.*
- (2) Section 75(1) is amended by adding the following after clause (k):*
- (l) respecting the establishment and operation by the Council of a compulsory continuing education program for members of the Association;*
  - (m) requiring members of the Association to carry professional liability insurance and governing the minimum coverage required;*
  - (n) respecting the manner of determining costs for the purposes of section 50(1)(a).*
- (3) Section 76(1)(u) is repealed.*

#### **Dental Mechanics Act**

Amends RSA  
1980 cD-9

- 2(1) The Dental Mechanics Act is amended by this section.*
- (2) Section 1(h) is amended by adding "or partial" after "complete" wherever it occurs.*

## **Explanatory Notes**

### **Dental Disciplines Act**

**1(1)** Amends chapter D-8.5 of the Statutes of Alberta, 1990.

**(2)** New regulation-making powers of the Council.

**(3)** This power is transferred to the regulations.

### **Dental Mechanics Act**

**2(1)** Amends chapter D-9 of the Revised Statutes of Alberta 1980.

**(2)** Section 1(h) presently reads:

*1 In this Act,*

*(h) "denture construction" means*

*(i) the making and repairing of any complete upper or complete lower denture, or*

(3) *Section 17(c) is amended by striking out “and prescribing the fees payable thereon not exceeding \$25 annually for each person registered”.*

(4) *The following is added after section 17:*

Registration  
and renewal  
fees

**17.1** The Minister may, by order, set the fee for registration by the Board as a dental mechanic and the fee for a renewal of that registration.

#### **Health Disciplines Act**

Amends RSA  
1980 cH-3.5

*3(1) The Health Disciplines Act is amended by this section.*

*(2) Section 11 is amended*

*(a) in subsection (2) by adding “and the registrar” after “applicant”;*

*(b) in subsection (4) by adding “and the health discipline association, if any,” after “applicant”;*

*(c) by repealing subsection (7) and substituting the following:*

**(7)** The Director shall serve the applicant and the registrar with a copy of the Board’s decision and the reasons for its decision.

*(3) Section 23.1(3) is amended by striking out “less” and substituting “more”.*

*(4) Section 24.1(1) is repealed and the following substituted:*

Proceedings  
before Board

**24.1(1)** The investigated person, the complainant, if any, and the health discipline association, if any, may appear and be represented by counsel at the hearing of an appeal before the Board.

*(5) Section 25(4) is amended*

(ii) *taking of impressions, bite registrations, try-ins and insertions for the making, producing, constructing and furnishing of any complete upper or lower denture for the intended wearer thereof;*

(3) Section 17(c) presently reads:

*17 Subject to the approval of the Lieutenant Governor in Council the Board may make regulations*

(c) *providing for maintaining a register of certified dental mechanics and providing for the annual renewal of registration and prescribing the fees payable thereon not exceeding \$25 annually for each person registered;*

(4) Registration fee.

### **Health Disciplines Act**

3(1) Amends chapter H-3.5 of the Revised Statutes of Alberta 1980.

(2) Section 11 presently reads in part:

(2) *On receipt of a request for a review, the Director shall notify the applicant of the date, time and place at which the Board will review the decision of the committee.*

(4) *An applicant is entitled to appear and be represented by counsel at the review.*

(7) *The Director shall serve the applicant, the registrar and the committee with a copy of the Board's decision and the reasons for its decision.*

(3) Section 23.1(3) presently reads:

(3) *A notice of appeal under this section shall be served on the Director not less than 30 days after the date on which the decision of the committee is served on the investigated person or the complainant, as the case may be.*

(4) Section 24.1(1) presently reads:

*24.1(1) The investigated person and the complainant, if any, may appear and be represented by counsel at the hearing of an appeal before the Board.*

(5) Section 25(4) presently reads:

(4) *The Director shall*

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

(a) serve a copy of the decision on the investigated person, the complainant, if any, and the registrar, and

*(b) in clause (b) by striking out “the committee” and substituting “the Health Discipline Committee or the health discipline association, as the case may be.”.*

*(6) Section 27(1) is amended by adding the following after clause (u):*

(v) requiring registered members of a designated health discipline to carry professional liability insurance and governing the minimum coverage required;

(w) respecting the establishment of practice review committees;

(x) respecting the responsibilities, duties and composition of a practice review committee.

*(7) Section 31.1 is amended*

*(a) in subsection (1)(a) by adding “a practice review committee,” before “the Director”;*

*(b) in subsection (2)(a) by adding “or a practice review committee” after “Board”.*

- (a) *serve a copy of the decision on the investigated person, the complainant, if any, the registrar and the committee, and*
- (b) *inform the investigated person, the complainant, if any, and the committee in writing of the right to appeal the decision to the Court of Appeal.*

(6) **New regulation-making powers of the Health Disciplines Board.**

(7) **Section 31.1 presently reads:**

*31.1(1) No action lies against*

- (a) *a member of the Board, a Committee, a health discipline association or a committee appointed by a health discipline association, the Director, a registrar, or any person acting on the instructions of any of them, or*
- (b) *any member, officer or employee of a health discipline 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 27.*

*(2) No action for defamation may be founded on a communication that consists of or pertains to the conduct of a person who is entitled to engage in the practice of a designated health discipline if the communication is published to or by*

(a) *a member of a Committee, a health discipline association, a committee appointed by a health discipline association or the Board,*

*(8) The Schedule is amended by adding the following after clause (l):*

*(m) Orthotists and Prosthetists.*

*(9) Subsection (8) comes into force on Proclamation.*

#### **Legal Profession Act**

Amends SA  
1990 cL-9.1

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

*(2) Section 127(3)(f) is repealed and the following is substituted:*

*(f) satisfies the Secretary that the legal and beneficial ownership of all issued non-voting shares of the corporation is vested in one or more active members who are also voting shareholders;*

*(3) This section comes into force on January 1, 1996.*

(b) *an officer or employee of a health discipline association,  
or*

(c) *a person acting on the instructions of a person referred  
to in clause (a) or (b)*

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

(8) Designated health disciplines.

(9) Coming into force.

### **Legal Profession Act**

4(1) Amends chapter L-9.1 of the Statutes of Alberta, 1990.

(2) Section 127(3)(f) presently reads:

*127(3) The Secretary shall issue a permit to any corporation that  
fulfils the following conditions:*

(f) *satisfies the Secretary that the legal and beneficial  
ownership of all issued non-voting shares of the  
corporation is vested in*

(i) *one or more active members who are also voting  
shareholders, or*

(ii) *one or more individuals who are within any of the  
following classes of relationship to an active member  
who is also a voting shareholder:*

(A) *the spouse of that member,*

(B) *a man or woman who, although not married to  
that member, lives together with that member as  
husband and wife and has done so for at least 2  
years,*

(C) *a child of that member, or*

(D) *any other relative of that member who resides  
with that member,*

*or*

(iii) *a trustee holding the shares in trust for the benefit of  
individuals within any of the classes described in  
subclause (i) or (ii);*

(3) Coming into force.

## Medical Profession Act

Amends RSA  
1980 cM-12

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

*(2) Section 21 is repealed and the following is substituted:*

Qualifications  
for registration

**21** An applicant for registration who has not previously been registered in Part 1 of the Alberta Medical Register is qualified to be registered if the applicant

- (a) holds a certificate of registration from the Medical Council of Canada, and
- (b) has met the education and training requirements set out in the by-laws.

## Opticians Act

Amends RSA  
1980 cO-8

*6(1) The Opticians Act is amended by this section.*

*(2) The following is added after section 45 but before the heading "Miscellaneous":*

Protection  
from liability

**45.1(1)** No action lies against

- (a) a preliminary investigator, a member of the discipline committee, the council or the practice review board or the registrar 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 this Act, the regulations or the by-laws.

**(2)** No action for defamation may be founded on a communication that relates to the conduct of an optician if the communication is published to or by

- (a) a member of the council, the discipline committee or the practice review board,
- (b) a preliminary investigator, or
- (c) a person acting on the instructions of a person referred to in clause (a) or (b),

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

### **Medical Profession Act**

**5(1)** Amends chapter M-12 of the Revised Statutes of Alberta 1980.

(2) Section 21 presently reads:

*21 An applicant for registration who has not previously been registered in Part 1 of the Alberta Medical Register is qualified for registration if*

*(a) he holds a degree in medicine from a university in Alberta and has satisfactorily served a period of postdoctoral training prescribed by the by-laws, or*

*(b) he holds a certificate of registration from the Medical Council of Canada and has served a period of training following qualification in medicine prescribed by the by-laws.*

### **Opticians Act**

**6(1)** Amends chapter O-8 of the Revised Statutes of Alberta 1980.

(2) Protection from liability.

**Psychology Profession Act**

Amends SA  
1985 cP-25.01

*7(1) The Psychology Profession Act is amended by this section.*

*(2) Section 1 is amended by adding the following after clause (e):*

(e.1) “mediator” means a person designated by the Council as a mediator;

*(3) Section 30 is repealed and the following is substituted:*

Registrar's  
duty on receipt  
of complaint

**30(1)** On receiving a written complaint under section 29, the Registrar shall

(a) refer the complaint to a mediator if the complainant and the person about whose conduct the complaint is made so agree, or

(b) commence or appoint a chartered psychologist to commence a preliminary investigation into the conduct complained of.

(2) If within 45 days after a complaint is referred to a mediator, or a longer period agreed to by the persons concerned, a settlement of the complaint does not occur or in the mediator’s opinion is not likely to occur, the complaint shall be referred back to the Registrar to be dealt with in accordance with subsection (1)(b).

(3) The Registrar may refer a complaint to the Discipline Committee despite a settlement being reached through mediation or the complaint being withdrawn.

Registrar's  
power in  
absence of  
complaint

**30.1** If the Registrar believes that the conduct of a chartered psychologist or a registrant constitutes or may constitute unskilled practice of psychology or professional misconduct, the Registrar may commence or appoint a chartered psychologist to commence a preliminary investigation into the conduct.

Transfer of  
investigation  
to chartered  
psychologist

**30.2** If the Registrar commences a preliminary investigation, he may at any time appoint a chartered psychologist to continue the investigation.

## **Psychology Profession Act**

7(1) Amends chapter P-25.01 of the Statutes of Alberta, 1985.

(2) New definition added.

(3) Section 30 presently reads:

### *30 The Registrar*

*(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,*

*commence or appoint a chartered psychologist to commence a preliminary investigation into the conduct of the chartered psychologist or registrant.*

*(4) The following is added after section 35:*

Panels of the  
Discipline  
Committee

**35.1(1)** The Council may designate a minimum of 3 members of the Discipline Committee to sit as a panel of the Discipline Committee.

**(2)** The Council may establish as many panels as it considers necessary.

**(3)** The Council shall designate which member of a panel is to act as the chairperson of the panel.

**(4)** A panel of the Discipline Committee has all the powers and functions of the Discipline Committee.

**(5)** Any reference in this Act to the Discipline Committee may be read as a reference to a panel of the Discipline Committee.

*(5) Section 59(1) is amended by adding the following after clause (y):*

**(z)** respecting mediation of complaints.

**(4) New section to enable panels of the Discipline Committee to conduct hearings.**

**(5) New regulation-making powers of the Council.**