

BILL

No. 31 of 1928.

An Act to Provide a Board to Deal with the Discipline of Professions.

(Assented to _____, 1928.)

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

1. This Act may be cited as "*The Professional Discipline Act.*"

2. In this Act, unless the context otherwise requires—

- (a) "Appropriate Act" shall mean that one of the Acts, mentioned in the schedule hereto, which controls the profession or calling of the person whose conduct is being inquired into, under the provisions of this Act;
- (b) "Disciplinary power" shall mean the power to remove or strike off the name of any member of any profession from the register, or to expel any such member or to forfeit his license or to strike him from the roll or to dismiss him or to erase his name or to revoke his certificate or in any other way to prevent him from practising his profession or calling, either permanently or temporarily; or to subject him to any pecuniary or other penalty;
- (c) "Governing body" shall mean the body to which, by any Act in the schedule hereto, the general government or control of a profession or calling is committed.

3. The Lieutenant Governor in Council may appoint a Board of such number of persons as may seem proper to him, which shall be known as "The Professional Discipline Board," and shall have such powers as are conferred upon it by the provisions of this Act.

4. The Board may at any time, formulate a rule defining unprofessional conduct, with reference to any of the Acts mentioned in the schedule hereto, or setting out that any conduct described in the said rule does or does not constitute unprofessional conduct, which rule upon being published in *The Alberta Gazette*, shall notwithstanding the provisions of any other Act, render the conduct therein described unprofessional conduct or not, as the case may be, within the meaning of the appropriate Act.

5. Where the appropriate Act confers no disciplinary powers, the Board shall have power, either of its own motion, or upon complaint of any person, to deprive, either temporarily or permanently, any member of any profession or calling of the privileges granted by the said Act, upon finding him guilty of unprofessional conduct, or otherwise unfitted for any reason whatsoever, to practise his profession or calling.

6.—(1) Where the appropriate Act contains disciplinary powers, then if any complaint is made to the Board that any member of any profession or calling dealt with by such Act has been guilty of unprofessional conduct or is otherwise howsoever unfitted to practise his profession or calling, the Board shall refer the complaint to the governing body, if any, of such profession or calling, for investigation, and for such action within its powers as may appear to such governing body to be proper.

(2) The Board may also, of its own motion, refer any similar case to the said governing body.

(3) When any such case is referred to any governing body, it shall as soon as possible, inquire into the same, and shall make a report to the Board of the facts of the case as found by it, and of its finding, and action with respect thereto.

7. If it appears to the Board that any complaint coming before any governing body whether upon a reference by the Board or not was not duly investigated, or that the disciplinary powers of the governing body were inadequate to deal satisfactorily with the case, or were exercised too leniently, then it shall have power of its own motion, and at its uncontrolled discretion to find, after due investigation, the person complained of guilty of unprofessional conduct, or otherwise unfitted to practise his profession or calling, and shall have power to deprive him, either temporarily or permanently, of the privileges granted to him by the Act by which his profession or calling is controlled, and to fine him the sum of not more than one thousand dollars; either in addition to or in lieu of any such deprivation.

8. Any person whose conduct has been inquired into under the provisions of this Act or of any of the Acts mentioned in the schedule hereto, shall have such right of appeal as is given by the appropriate Act:

Provided, however, that if any governing body has exercised its disciplinary powers in respect of an act not involving moral turpitude, on the ground that such act constitutes unprofessional conduct, then in lieu of taking any such appeal the person disciplined may within one month from the date of such exercise of disciplinary powers, notify the governing authority that he intends to appeal to the Board, and the said governing authority shall, if it has not

already done so, make a report to the Board of the facts of the case as found by it, and of its finding and action with respect thereto, whereupon the Board shall, notwithstanding the provisions of any other Act, have power to decide whether such conduct does or does not involve moral turpitude, and whether it in fact constitutes unprofessional conduct or not.

9. Notwithstanding the provisions of any other Act, whenever the Board exercises its disciplinary powers so as to permanently deprive any person of the privileges granted to him by the appropriate Act, such person shall not be restored to the privileges of his profession or calling, until the said Board has inquired into the case and directed such restoration.

10. The Board shall have authority to hear or determine all questions of law or of fact.

11. The Board shall, as respects the administering of oaths, affirmations or declarations, amendment of proceedings, the summoning of witnesses, the enforcement of their attendance, and the compelling of them to give evidence, the production and inspection of documents, the enforcement of its orders, the payment of costs and all other matters necessary or proper for the due exercise of its jurisdiction or otherwise for carrying any of its powers into effect, have all such powers, rights and privileges as are vested in the Supreme Court of Alberta.

12. The person complained of shall be a compellable witness.

13. The Board may in its discretion accept and act upon evidence by affidavit or written affirmation or by the report made by any governing authority or any other persons or person to whom the Board may delegate the duty of reporting to it.

14. All hearings and investigations before the Board shall be governed by rules adopted by the Board and in the conduct thereof the Board shall not be bound by the technical rules of legal evidence.

15. No person shall be excused from testifying or from producing any book, document, or paper in any investigation or inquiry, by or upon the hearing before said Board, when ordered so to do by the Board, upon the ground that the testimony or evidence, book, document or paper required of him may tend to incriminate him or subject him to disciplinary powers, or may tend to establish his liability to a civil proceeding at the instance of the Crown or of any per-

son or to prosecution under any statute, but the answer so given if it be such as tends to criminate him shall not be used or receivable against him in any civil proceedings or in any proceeding under any other Act of Alberta.

16. There shall be no appeal from any decision of the Board nor shall the same be questioned in any court of law.

17. The Board shall have the power in hearing any case submitted to it under the provisions of this Act, to request any member or members of the profession or calling of which the accused is a member, to sit with the said Board as an assessor or as assessors.

18. The Lieutenant Governor in Council shall have power to place any Act in the schedule, and to add any Act to the schedule, and to remove any Act from the schedule.

SCHEDULE.

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No. 31.

SECOND SESSION
SIXTH LEGISLATURE
18 GEORGE V
1928

B I L L

An Act to Provide a Board to Deal
with the Discipline of
Professions.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. HOADLEY.

EDMONTON:
W. D. McLEAN, ACTING KING'S PRINTER
A.D. 1928