



PRINCE EDWARD ISLAND  
ÎLE-DU-PRINCE-ÉDOUARD

# **MEDICAL ACT**

## PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this Act, current to December 2, 2015. It is intended for information and reference purposes only.

This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site ([www.princeedwardisland.ca](http://www.princeedwardisland.ca)).

If you find any errors or omissions in this consolidation, please contact:

*Legislative Counsel Office*

*Tel: (902) 368-4292*

*Email: [legislation@gov.pe.ca](mailto:legislation@gov.pe.ca)*



## MEDICAL ACT

### Table of Contents

Section	Page
<b>PART I — INTERPRETATION</b>	<b>7</b>
1. Definitions.....	7
<b>PART II — COLLEGE OF PHYSICIANS AND SURGEONS OF PRINCE EDWARD ISLAND</b>	<b>8</b>
2. Establishment of College of Physicians and Surgeons.....	8
3. Objects .....	8
4. Powers.....	9
5. Annual meeting.....	9
<b>COUNCIL</b> .....	<b>9</b>
6. Establishment of Council .....	9
7. Composition.....	9
8. Termination of office .....	9
9. President and Vice President.....	10
9.1 Executive Committee.....	10
10. Committees .....	11
11. Meetings.....	11
<b>ENABLING CERTIFICATES</b> .....	<b>11</b>
12. Enabling certificate, physician in training.....	11
<b>PART III — REGISTRATION AND LICENSURE</b>	<b>11</b>
13. Medical Register .....	11
14. Licensing, existing physicians .....	11
14.1 Effect of certification .....	11
15. Qualifications for registration .....	12
16. Registration, medical students awaiting examination results .....	12
17. Registration, Government of Canada physicians .....	13
18. Temporary and Limited Register .....	14
19. Medical Specialists Register .....	14
20. Family Practice Register .....	15
21. Corporations Register .....	16
22. Medical Education Register .....	17
23. Cancellation of registration .....	18
24. Application.....	18
25. License fees.....	19
26. Reinstatement by Council .....	20
27. Conditions remain applicable.....	20
28. Authority of licensed medical practitioner.....	20
29. Authority of licensed professional corporation .....	20
<b>PART IV — DISCIPLINE</b>	<b>20</b>
29.1 Standards procedures, penalties .....	20

30.	Representation at inquiry .....	21
30.1	Complainant's rights .....	21
31.	Support services .....	21
32.	Professional misconduct .....	21
32.1	Who may make complaint .....	22
32.2	Report by member .....	22
32.3	Notice of offence affecting suitability .....	22
32.4	Multiple complaints .....	23
32.5	Action pending outcome of disciplinary process .....	23
32.6	Mediation .....	23
7	Closed, open proceedings .....	24
32.8	Protection of witness identity .....	24
33.	Complaints and Registration Committee .....	24
34.	Fitness to Practise Committee .....	26
35.	Board of Inquiry .....	28
36.	Costs .....	31
36.1.	Notice by Council to affected interests .....	32
37.	Appeal to Appeal Division of Supreme Court .....	33
37.1	Discipline of former member .....	33
38.	Minimum period, conditions before application for reinstatement .....	34
	SEXUAL ABUSE .....	35
38.1	No tolerance of sexual abuse .....	35
38.2	Report .....	35
38.3	Revocation of license .....	36
38.4	Fine for costs of therapy .....	36
38.5	Educational programs .....	36
<b>PART IV.1 — PEER ASSESSMENT</b>		<b>37</b>
38.6	Definitions .....	37
38.7	Definitions .....	39
39.	Associate and former members .....	40
<b>PART V — THE MEDICAL SOCIETY OF PRINCE EDWARD ISLAND</b>		<b>40</b>
40.	Society continued by previous Act .....	40
41.	Membership .....	41
42.	Head office .....	41
43.	Board .....	42
44.	Annual meeting .....	42
45.	Officers .....	42
46.	Authority .....	42
<b>PART VI — MISCELLANEOUS AND GENERAL</b>		<b>43</b>
	Professional Corporations .....	43
47.	Application of Act to members of professional corporations .....	43
48.	Physician to patient relationship .....	43
	Limitation of Actions .....	43
49.	Limitation period .....	43
	Liability 44	
50.	Limited liability in circumstances where first aid or emergency treatment rendered outside office or hospital .....	44
51.	Liability .....	44
	Compellability .....	44
52.	Confidentiality of medical audit committee, etc. reports .....	44
	Evidence .....	45
53.	Certificate of licensure or registration .....	45
	Notices	45



---

54.	Manner of service.....	45
	Offences .....	45
55.	Violation of condition .....	45
56.	Unauthorized practice of medicine .....	45
57.	Furnishing false information .....	46
58.	Unlicensed corporate practice .....	46
59.	Unlawful transfer of shares in professional corporation .....	46
60.	Unlawful practise by student or intern .....	46
61.	Prosecution, limitation period .....	46
62.	Penalties .....	46
	Exemptions.....	47
63.	Exemptions .....	47
64.	Visiting forces .....	47
	Injunction .....	47
65.	Injunction .....	47
	Bylaws 47	
66.	Bylaws .....	47
	Ministerial Powers.....	48
66.1	Appointment of person to inquire and make recommendations.....	48
66.2	Ministerial directive .....	49
	Regulations.....	49
67.	Regulations .....	49
<b>SCHEDULE</b>		<b>51</b>

---





## MEDICAL ACT CHAPTER M-5

### PART I — INTERPRETATION

#### 1. Definitions

In this Act

- (a) “**associate member**” means a person who is registered in the Medical Education Register and holds a license;
- (b) “**Board**” means a Board of Inquiry appointed under section 35;
- (c) “**College**” means the College of Physicians and Surgeons of Prince Edward Island established under section 2;
- (c.1) “**complainant**” means a person who makes a formal complaint to the Registrar alleging a member is guilty of professional misconduct or is an incapacitated or unfit member;
- (d) “**Complaints and Registration Committee**” means the Committee maintained under section 33;
- (e) “**Council**” means Council of the College constituted under section 6;
- (f) “**disciplinary matter**” means any matter involving an allegation of professional misconduct or fitness to practise on the part of a member or associate member;
- (g) repealed by *1992, c.47, s.1*;
- (h) “**Fitness to Practise Committee**” means the Committee maintained under section 34;
- (i) “**hospital**” means a hospital as defined in the *Hospitals Act* R.S.P.E.I. 1988, Cap. H-10;
- (j) “**incapacitated member**” means a member suffering from a physical or mental condition, emotional disturbance or excessive use of alcohol or drugs, of a nature and extent making it desirable in the interests of the public or the member that he no longer be permitted to practise, or that his practice be restricted;
- (k) “**license**” means a valid and subsisting license issued under this Act authorizing a person to engage in the practice of medicine;
- (l) “**Medical Education Register**” means the register kept pursuant to subsection 22(1);
- (m) “**medical practitioner**” means a person who is registered in the Medical Register or the Temporary and Limited Register;
- (n) “**medical student**” means a person who is registered in the Medical Education Register;
- (o) “**member**” means a member of the College who is registered in the Medical Register or the Temporary and Limited Register and holds a license;

- (p) “**Minister**” means the Minister of Health and Wellness;
- (p.1) “**Peer Assessment Committee**” means the committee established pursuant to subsection 38.6(2) or (3);
- (q) “**practice of medicine**” means the practice of medicine, surgery, obstetrics, pathology, radiology and the specialities thereof, but does not include veterinary surgery;
- (r) “**prescribed**” means prescribed by regulations under this Act;
- (s) “**previous Act**” means the *Medical Act* R.S.P.E.I. 1974, Cap. M-8;
- (t) “**register**” includes the Medical Register, the Medical Education Register, Medical Specialists Register, and Temporary and Limited Register;
- (u) “**registered**” means registered under this Act;
- (v) “**Registrar**” means the person holding the office of Registrar under section 9;
- (w) “**Society**” means the Medical Society of Prince Edward Island, Canadian Medical Association, Prince Edward Island Division continued by section 40;
- (x) “**Temporary and Limited Register**” means the register kept pursuant to section 18;
- (y) “**unfit member**” means a member who has demonstrated a lack of knowledge, skill, or judgment or a disregard for the welfare of the patient, of a nature and extent making it desirable in the interests of the public or the member that he no longer be permitted to practise or that his practice be restricted. *1987, c.47, s.1; 1992, c.47, s.1 {eff.} July 1/92; 1993, c.32, s.1; 1997, c.30, s.1 {eff.} Sept. 8/98; 2005, c.40, s.20; 2010, c.31, s.3.*

## PART II — COLLEGE OF PHYSICIANS AND SURGEONS OF PRINCE EDWARD ISLAND

### 2. Establishment of College of Physicians and Surgeons

There is established a body corporate to be known as the College of Physicians and Surgeons of Prince Edward Island consisting of persons

- (a) who are registered on the date this Act comes into force in the medical register maintained under the previous Act; or
- (b) who are licensed under this Act. *1987, c.47, s.2.*

### 3. Objects

The objects of the College are

- (a) to regulate the practice of medicine, to provide for the licensing and registration of physicians, to exercise disciplinary measures and to govern its members in accordance with this Act and the regulations;
- (b) to establish, maintain and ensure adherence to standards of qualification and practice for the practice of medicine;
- (c) to promote good standards of knowledge and skill among its members;
- (d) to establish, maintain and ensure adherence to standards of professional ethics among its members; and
- (e) to administer this Part,

in order that the interest of the public in obtaining a high standard of medical services is served. *1987, c.47, s.3.*



**4. Powers**

The College may

- (a) draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, warrants and other negotiable and transferable instruments;
- (b) engage such employees as may be considered expedient;
- (c) expend the moneys of the College in the advancement of its objects in such manner as may be considered expedient;
- (d) establish and maintain such offices and agencies as may be considered expedient;
- (e) invest and deal with any moneys and funds of the College which are not immediately required in such manner as may be considered expedient;
- (f) borrow money for the use of the College on its credit, limit or increase the amount to be borrowed, issue bonds, debentures, debenture stock and other securities on the credit of the College, and pledge or sell such securities for such sums or at such prices as may be considered expedient; and
- (g) do such things as it considers appropriate to advance the objects of the College or as are incidental or necessary to the exercise of these powers. *1987,c.47,s.4.*

**5. Annual meeting**

There shall be an annual meeting of the College at such time and place as the Council may determine. *1987,c.47,s.5.*

***COUNCIL***

**6. Establishment of Council**

There shall be a Council of the College which shall, subject to this Act, the regulations and bylaws, govern, control and administer the affairs of the College. *1987,c.47,s.6.*

**7. Composition**

(1) The Council shall consist of

- (a) not less than six and not more than nine members of the College elected in the manner provided by this Act;
- (b) one member of the College appointed by the Minister, who may be the Minister if he is a member of the College; and
- (c) two lay persons appointed by the Lieutenant Governor in Council who
  - (i) are not members of the College, but
  - (ii) whose names are on a panel of not less than four persons nominated by the Council.

**Term of office**

(2) Members of Council shall be elected or appointed to office for a term of three years. *1987,c.47,s.7; 1992,c.47,s.2 {eff.} July 1/92.*

**8. Termination of office**

A member of Council shall cease to hold office

- (a) if he resigns by notice in writing delivered to the Registrar;
- (b) if he ceases to reside in the medical electoral district for which he was elected;
- (c) if he ceases to be a member of the College; or
- (d) if he is absent from three consecutive meetings of the Council, unless excused by the Council. *1987,c.47,s.8.*

**9. President and Vice President**

- (1) The Council shall elect annually from its members a President and Vice President.

**Registrar**

- (2) The Council shall appoint annually a Registrar, at such salary or other remuneration as the Council may decide.

**Acting Registrar**

- (3) The Council may appoint an Acting Registrar, who shall exercise the powers and duties of the Registrar in the event of the death or incapacity of the Registrar, or absence from the province.

**Staff**

- (4) The Council may appoint such other officers or employees at such salary or other remuneration, and for such term of office as the Council considers necessary to assist it in carrying out its functions. *1987,c.47,s.9.*

**9.1 Executive Committee**

- (1) There shall be an Executive Committee of the Council consisting of
  - (a) the President;
  - (b) the Vice President; and
  - (c) two other members of the Council, appointed annually by the Council, one of whom shall be a member of the Council appointed pursuant to clause 7(1)(c).

**Powers and duties**

- (2) Between the meetings of the Council, the Executive Committee may exercise the powers and shall perform the duties of the Council under this Act with respect to any matter that the Executive Committee is satisfied requires immediate attention.

**Regulations -restrictions**

- (3) The Executive Committee may not make, amend or revoke a regulation pursuant to subsection (2).

**Report to Council**

- (4) If the Executive Committee exercises a power or performs a duty of the Council pursuant to subsection (2), it shall report on its action to the Council at the next meeting of the Council.

**Acts of Committee deemed acts of Council**

- (5) Any exercise of a power or performance of a duty of the Council by the Executive Committee pursuant to subsection (2) is deemed to have been exercised or performed by the Council for all purposes of this Act. *2001,c.12,s.2.*



**10. Committees**

The Council may appoint annually such other committees from among members of Council or the College as the Council considers necessary to assist it in carrying out its functions. *1987,c.47,s.10; 2001,c.12,s.3.*

**11. Meetings**

- (1) Subject to subsection (2), the President shall preside at all meetings of the Council, the Executive Committee and the College.

**Chairman**

- (2) If the President is absent from a meeting, the Vice President or, in the absence of the Vice President, some other member to be chosen from the members present shall preside at that meeting.

**Voting**

- (3) Except in the event of an equal number of votes being given for and against a resolution at any meeting, the President or other presiding officer shall not vote. *1987,c.47,s.11; 2001,c.12,s.4.*

***ENABLING CERTIFICATES*****12. Enabling certificate, physician in training**

Repealed by *1992,c.47,s.3 {eff.} July 1/92.*

**PART III — REGISTRATION AND LICENSURE****13. Medical Register**

The Council shall keep a register called the Medical Register in which shall be entered the name, address and qualifications of all persons who are entitled under this Act to be registered therein. *1987,c.47,s.13.*

**14. Licensing, existing physicians**

- (1) The Registrar shall issue a license to every person who, at the coming into force of this Act,
- (a) is registered under section 13 or 22 of the previous Act; and
  - (b) holds a license under that Act.

**Conditions of practice**

- (2) Every license issued under subsection (1) shall be subject to any conditions or limitations attached to the registration under the previous Act. *1987,c.47,s.14.*

**14.1 Effect of certification**

Where an applicant for registration and licensure under this Part has obtained certification by

- (a) the Accreditation Committee of the Royal College of Physicians and Surgeons of Canada;
- (b) the Accreditation Committee of the College of Family Physicians of Canada;

- (c) the Comité des études médicales et de l'agrément of the Collège des médecins du Québec;
- (d) the Liaison Committee of Medical Education in the United States of America;
- (e) the Accreditation Council for Graduate Medical Education in the United States of America;
- (f) the Association of Faculties of Medicine of Canada; or
- (g) the American Osteopathic Association,

the Council shall accept that certification without requiring the applicant to complete or write any type of examination for earlier academic credentials on which the certification by the applicable body referred to in clauses (a) to (g) is based. *2015,c.35,s.1.*

**15. Qualifications for registration**

- (1) The Council shall direct the Registrar to enter in the Medical Register the name, address and qualifications of any person who
  - (a) holds a medical degree from a medical school approved by the Council;
  - (b) has completed a program of preregistration physician training satisfactory to Council;
  - (c) produces a certificate under the hand of the Registrar of the Medical Council of Canada that his name appears in the Canadian Medical Register in pursuance of the *Canada Medical Act R.S.C. 1952, Chap. 27*;
  - (d) produces a letter of good standing from the jurisdiction in which he has practised medicine prior to applying under this section; and
  - (e) complies with the requirements of section 24.

**Action by Registrar**

- (2) Upon receiving a direction from Council mentioned in subsection (1), the Registrar shall
  - (a) enter the name, address and qualifications of the person named therein in the Medical Register; and
  - (b) issue a license to that person. *1987,c.47,s.15.*

**16. Registration, medical students awaiting examination results**

- (1) The Council shall direct the Registrar to enter in the Medical Register the name, address and qualifications of any person who
  - (a) has been registered as a medical student;
  - (b) has completed a program of pre-registration training satisfactory to the Council;
  - (c) holds a medical degree from a Canadian medical school approved by the Council;
  - (d) produces evidence satisfactory to the Council that he has Passed Part I of the qualifying examinations of the Medical Council of Canada; and
  - (e) complies with the requirements of section 24.

**Action by Registrar**

- (2) Upon receiving a direction from the Council mentioned in subsection (1), the Registrar
  - (a) shall enter the name, address and qualifications of the person named therein in the Medical Register; and
  - (b) shall issue a conditional license to that person.



**Authority to practise**

- (3) Every person to whom a conditional license has been issued under subsection (2) may practise medicine until such time as the results of Part II of the qualifying examinations of the Medical Council of Canada are announced.

**Revocation of license**

- (4) When the results of Part II of the qualifying examinations of the Medical Council of Canada are announced, the Registrar shall strike from the Medical Register and revoke the conditional licenses of all persons licensed under subsection (2) who have failed to pass Part II of the qualifying examinations.

**Duration of license**

- (5) Every person to whom a license has been issued under subsection (2) who passes all qualifying examinations of the Medical Council of Canada may practise medicine until the Registrar of the Medical Council of Canada issues a certificate that the person's name is entered in the Canadian Medical Register in pursuance of the *Canada Medical Act*.

**Issuance of license**

- (6) Upon receiving the results of the examinations and the certificate referred to in subsection (5), the Registrar shall issue a new license to that person. *1987, c.47, s.16; 1992, c.47, s.4 [eff.] July 1/92.*

**17. Registration, Government of Canada physicians**

- (1) The Council shall direct the Registrar to enter in the Medical Register the name, address and qualifications of any physician employed by the Government of Canada, including a physician serving in the Canadian Armed Forces, upon
- (a) receiving a request therefor from the senior government official resident in Prince Edward Island for the Department employing the physician, or the physician's commanding officer, as the case may be;
  - (b) being satisfied as to the professional qualifications of the physician; and
  - (c) payment of the prescribed registration fee.

**Action by Registrar**

- (2) Upon receiving a direction from the Council mentioned in subsection (1), the Registrar shall
- (a) enter the name, address and qualifications of the person named therein in the Medical Register; and
  - (b) issue a license to that person.

**Conditions of practice**

- (3) A person to whom a license has been issued under subsection (2) may practise medicine
- (a) in the performance of his duties in the public service of the Government of Canada or the Canadian Armed Forces, as the case may be; or
  - (b) in consultation with a regularly licensed medical practitioner when his services are specifically requested.

**Revocation of license on termination of employment**

- (4) When a person registered under this section ceases to be employed by the Government of Canada or ceases to serve in the Canadian Armed Forces, as the case may be, the Registrar shall

- (a) strike his name from the Medical Register; and
- (b) revoke his license.

**Prohibition**

- (5) No person shall practise medicine while employed in the public service of the Government of Canada or in the Canadian Armed Forces unless he is registered and licensed. *1987,c.47,s.17.*

**18. Temporary and Limited Register**

- (1) The Council shall keep a register called the Temporary and Limited Register in which shall be entered the name, address and qualifications and terms and conditions of the registration of all persons who are entitled under this Act to be registered therein.

**Regulations re Temporary and Limited Register**

- (2) The Council may make regulations
  - (a) governing the persons or classes of persons who may be registered in the Temporary and Limited Register;
  - (b) dividing the Temporary and Limited Register into parts representing the classes of person who may be registered therein;
  - (c) prescribing the qualifications required for registration in the Temporary and Limited Register;
  - (d) providing for the suspension or revocation of any registration in the Temporary and Limited Register;
  - (e) prescribing the duration of licenses issued under this section and registrations in the Temporary and Limited Register;
  - (f) prescribing the extent to which and the terms and conditions under which persons registered in the Temporary and Limited Register may engage in the practice of medicine; and
  - (g) prescribing by whom applications may be made under this section and the procedure for applications.

**Qualifications for registration**

- (3) The Council shall direct the Registrar to register in the Temporary and Limited Register the name, address and qualifications, and terms and conditions of registration of any person who
  - (a) satisfies the Council that he possesses the qualifications required for registration in the Temporary and Limited Register; and
  - (b) complies with the requirements of section 24.

**Action by Registrar**

- (4) Upon receiving a direction from the Council mentioned in subsection (3), the Registrar shall enter in the Temporary and Limited Register the name, address and qualifications and terms and conditions of registration of the person named therein, and shall issue a license to that person. *1987,c.47,s.18.*

**19. Medical Specialists Register**

- (1) The Council shall keep a register called the Medical Specialists Register in which shall be entered the name, address and qualifications and specialty of all members who are entitled under this Act to be registered therein.



**Regulations re Medical Specialists Register**

- (2) The Council may make regulations
- (a) defining classes of specialists in various branches of medicine;
  - (b) dividing the Medical Specialists Register into parts representing the classes of specialists as defined by Council;
  - (c) prescribing the qualifications required for registration in the Medical Specialists Register;
  - (d) providing for the suspension or revocation of any registration in the Medical Specialists Register;
  - (e) providing for the regulation and prohibition of the use of terms, titles or designations by members indicating specialization in any branch of medicine; and
  - (f) prescribing the duration of registrations in the Medical Specialists Register.

**Qualifications for registration**

- (3) The Council shall direct the Registrar to enter in the Medical Specialists Register the name, address and qualifications and the specialty of any medical practitioner who
- (a) holds a license;
  - (b) satisfies the Council that he possesses the qualifications required for registration in the Medical Specialists Register; and
  - (c) complies with the requirements of section 24.

**Action by Registrar**

- (4) Upon receiving a direction from the Council mentioned in subsection (3), the Registrar shall enter the name, address, qualifications and the specialty of the person named therein.  
*1987, c.47, s.19.*

**20. Family Practice Register**

- (1) The Council shall keep a register called the Family Practice Register in which shall be entered the name, address and qualifications of all members who are entitled under this Act to be registered therein.

**Qualifications for registration**

- (2) The Council shall direct the Registrar to enter in the Family Practice Register the name, address and qualifications of any medical practitioner who
- (a) holds a license;
  - (b) satisfies the Council that he possesses a certificate of family practice issued by the College of Family Physicians of Canada or possesses other qualifications recognized by the Council as equivalent; and
  - (c) complies with the requirements of section 24.

**Action by Registrar**

- (3) Upon receiving a direction from the Council mentioned in subsection (2), the Registrar shall enter the name, address and qualifications of the person named therein in the Family Practice Register.

**Regulations re Family Practice Register**

- (4) The Council may make regulations
- (a) defining areas of expertise in various branches of family practice;

- (b) dividing the Family Practice Register into parts representing the areas of expertise;
- (c) prescribing the qualifications required for registration in the Family Practice Register;
- (d) providing for the suspension or revocation of registration;
- (e) regulating or prohibiting the use of terms, titles or designations by members indicating expertise in any branch of family practice;
- (f) prescribing the duration of registration. *1987, c.47, s.20; 1992, c.47, s.5 {eff.} July 1/92.*

**21. Corporations Register**

- (1) The Council shall keep a register called the Corporations Register.

**Regulations re Corporations Register**

- (2) The Council may make regulations
- (a) requiring the filing of periodic returns by corporations registered in the Corporations Register;
  - (b) providing for the annual renewal of licenses under this section, and prescribing the terms and conditions upon which renewals may be granted; and
  - (c) prescribing the types of names by which
    - (i) a professional corporation,
    - (ii) a partnership of two or more professional corporations, or
    - (iii) a partnership of one or more professional corporations and one or more individual practitioners  
may be known.

**Qualifications for registration**

- (3) The Council shall direct the Registrar to enter in the Corporations Register the name and address of any professional corporation which
- (a) submits to the Registrar an application in the form prescribed by the Council;
  - (b) pays the prescribed fees;
  - (c) satisfies the Registrar that it is a corporation in good standing under the *Canada Business Corporations Act* R.S.C. 1985, Chap. C-44 or the *Companies Act* R.S.P.E.I. 1988, Cap. C-14;
  - (d) satisfies the Registrar
    - (i) that its letters patent permit the corporation to carry out the objects contained in the Schedule, or
    - (ii) that its articles of incorporation contain no restrictions on the business which the corporation may carry on which prevents the corporation from carrying out the objects contained in the Schedule;
  - (e) satisfies the Registrar that the name of the corporation is in accordance with the bylaws and contains the words “Professional Corporation”;
  - (f) satisfies the Registrar that the legal and beneficial ownership of all of the issued voting shares of the corporation are vested in one or more members of the College and that no less than two thirds of the directors of the corporation are at all times members of the College; and
  - (g) satisfies the Registrar that the persons who will carry on the practice of medicine on behalf of the corporation are members of the College.



**Practice**

- (4) For the purposes of clause (3)(g), the practice of a member of the College shall be deemed not to be carried on by clerks, secretaries, nurses and other assistants employed by the corporation to perform services that are not usually and ordinarily considered by law, custom or practice to be services that may be performed only by a member of the College.

**Action by Registrar**

- (5) Upon receiving a direction from the Council mentioned in subsection (3), the Registrar shall
- (a) enter the name and address of the corporation named therein in the Corporations Register; and
  - (b) issue a license to the corporation.

**Expiration of license**

- (6) A license issued under subsection (5) expires on December 31 of the year for which it was issued.

**Revocation**

- (7) A license issued under subsection (5) may be revoked, or its renewal withheld by the Council, where any of the conditions specified in subsection (3) no longer exist.

**Temporary relaxation of conditions in certain circumstances**

- (8) Where a professional corporation ceases to fulfil any condition specified in subsection (3) by reason only of
- (a) the death of a member of the College;
  - (b) the striking off or other removal from the Medical or Temporary and Limited Register of the name of a member of the College, or

who is a shareholder of the professional corporation, if the professional corporation fails to fulfil the condition within ninety days from the date of the striking off or other removal, or suspension of the member, the Registrar shall revoke the license of the professional corporation.

**Name**

- (9) A corporation to which a license is granted under this section may practice medicine in its own name, subject to any conditions or limitations in the license. *1987,c.47,s.21; 1993,c.32,s.2.*

**22. Medical Education Register**

- (1) The Council shall keep a register called the Medical Education Register in which shall be entered the name, address and qualifications of all persons who are entitled under this Act to be registered therein.

**Regulations re Medical Education Register**

- (2) The Council may make regulations
- (a) providing for the suspension or revocation of any registration in the Medical Education Register; and
  - (b) prescribing the extent to which persons registered in the Medical Education Register may engage in the practice of medicine.

**Qualification for registration**

- (3) The Council shall direct the Registrar to enter in the Medical Education Register the name, address and qualifications of any person who
- (a) is a student of a medical school approved by Council and is engaged in a program of pre-registration training acceptable to the Council;
  - (b) holds a medical degree from a medical school approved by the Council and is engaged in a program of pre-registration physician training acceptable to the Council; or
  - (c) holds a medical degree from a medical school approved by the Council and is engaged in a program of post-graduate training acceptable to the Council,
- and complies with the requirements of section 24.

**Action by Registrar**

- (4) Upon receiving a direction from the Council mentioned in subsection (3), the Registrar shall enter the name, address and qualifications of the person named therein in the Medical Education Register.

**Cancellation of registration**

- (5) The Registrar shall strike the name of any person from the Medical Education Register who
- (a) ceases to be engaged in a program of pre-registration physician training or post-graduate training; or
  - (b) has been registered in the Medical Register. *1987,c.47,s.22.*

**23. Cancellation of registration**

Notwithstanding anything in this Act, the Council may refuse to register any person who has been found guilty in or out of Canada of a crime punishable by imprisonment that in the opinion of the Council may affect his suitability to practise, whether or not imprisonment was actually imposed or the result was a suspended sentence or discharge, and may cause the Registrar to strike off the registers the name of any member or associate member who is so found guilty but may at any time permit that person to be registered or to remain registered upon such terms and conditions as it may direct. *1987,c.47,s.23; 1997,c.30,s.2 {eff.} Sept. 8/98.*

**24. Application**

- (1) Any person who applies
- (a) repealed by *1992,c.47,s.6;*
  - (b) for registration in the Medical Register under section 15 or 16;
  - (c) for registration in the Temporary and Limited Register under section 18;
  - (d) for registration in the Medical Specialists Register under section 19;
  - (e) for registration in the Family Practice Register under section 20; or
  - (f) for registration in the Medical Education Register under section 22,
- shall
- (g) apply therefor in the prescribed manner;
  - (h) satisfy the Council that he is the person named in any diploma or documentation submitted in support of the application;
  - (i) satisfy the Council that he has a reasonable proficiency in written and spoken English or French or both;



- (j) satisfy the Council that he is entitled to work in the province;
- (k) provide such information as the Council may require; and
- (l) upon registration, pay the prescribed registration fee.

**Reasonable proficiency assessed**

- (2) For the purpose of clause 24(1)(i), an applicant is reasonably proficient in English if the applicant
- (a) has obtained, within the 24-month period immediately preceding the application,
    - (i) a minimum score of 24 in each of the four components of the Internet-based test of the Test of English as a Foreign Language of the Educational Testing Service, or
    - (ii) a minimum score of 7 in each of the four components of the academic test of the International English Language Testing System;
  - (b) has completed both primary and secondary education in English;
  - (c) has obtained a degree in medicine from a medical school in which the language of instruction, including the language used in patient care, was English;
  - (d) has, in a jurisdiction where the language of instruction or practice was English,
    - (i) completed four years of postgraduate education in clinical medicine,
    - (ii) practised, unsupervised and in good standing, for at least four years, or
    - (iii) completed a combination of postgraduate education in clinical medicine and practice, unsupervised and in good standing, for a total of at least four years;
  - (e) has held continuously, for the four years immediately preceding the application, a senior teaching appointment at an accredited medical school in which the language of instruction, including the language used in patient care, was English; or
  - (f) otherwise satisfies the College that the applicant is reasonably proficient in English.  
*1987,c.47,s.24; 1992,c.47,s.6 {eff.} July 1/92; 2015,c.35,s.2.*

**25. License fees**

- (1) Every member and associate member shall pay the prescribed license fee to the Registrar, or such person as he may nominate,
- (a) at or before the time he is licensed; and
  - (b) on or before January 1 in each year thereafter.

**Society membership fees**

- (2) Every member shall pay the prescribed annual membership fee of the Society to the Society, or such person as it may nominate,
- (a) at the time he applies for membership; and
  - (b) on or before January 1 in each year thereafter.

**Suspension for failure to pay fees**

- (3) Both the license and the membership in the Society of any member or associate member who fails to pay either or both of the prescribed annual fees as required by subsection (1) or (2) may be suspended in accordance with the procedure prescribed by the regulations.

**Notice of suspension**

- (4) The Registrar shall forthwith notify in writing any person whose license has been suspended under this section.

**Penalty for late payment**

- (5) Without prejudice to subsection (3), the Council may impose a penalty of such amount as may be prescribed on any member or associate member who fails to pay the prescribed annual fees within such period after the due date thereof as the Council may determine. *1987,c.47,s.25; 1992,c.47,s.7 [eff.] July 1/92.*

**26. Reinstatement by Council**

Where the license of a member or associate member has been suspended under subsection 25(3), or has lapsed for more than one year the Council may require him

- (a) to satisfy the Council of his intention to practise medicine in the province;
- (b) to satisfy the Council as to his professional activities since the date of the suspension or lapse;
- (c) to produce a letter of good standing from all jurisdictions in which he practised medicine since the date of the suspension or lapse;
- (d) to undergo such clinical or other examinations or retraining as the Council may designate; and
- (e) to pay the prescribed fees,

and the Council may direct the Registrar to issue a license to the member or associate member. *1987,c.47,s.26.*

**27. Conditions remain applicable**

Every license issued under section 26 shall be subject to any conditions or limitations contained in the license suspended under subsection 25(3). *1987,c.47,s.27.*

**28. Authority of licensed medical practitioner**

A medical practitioner who holds a license is, subject to any condition or limitation contained in his license, entitled to practise medicine in the province and to demand and recover in any court of law, reasonable charges for professional services rendered, and the cost of any medicine or medical appliances rendered or supplied to any person. *1987,c.47,s.28.*

**29. Authority of licensed professional corporation**

A professional corporation which holds a license is, subject to any condition or limitation contained in its license, entitled to demand and recover in any court of law, reasonable charges for services performed on its behalf and in its name by a medical practitioner who holds a license, and the costs of any medicine or medical appliances rendered or supplied to any person. *1987,c.47,s.29.*

**PART IV — DISCIPLINE**

**29.1 Standards procedures, penalties**

The Council shall, by means of regulations made under section 67 or formal written policies or a combination thereof, establish

- (a) standards of or methods for determining acceptable practice, competence, and professional misconduct;



- (b) procedures for the investigation, hearing and disposition of complaints and other disciplinary matters;
- (c) remedies and penalties and criteria to guide the choice of appropriate disciplinary or remedial action to suit the type, severity and context of the misconduct, incapacity or unfitness to practise. *1997,c.30,s.3 {eff.} Sept. 8/98.*

### 30. Representation at inquiry

The following have the right to be represented by counsel at an inquiry by a Board of Inquiry:

- (a) the College;
- (b) the member whose conduct or fitness to practise is the subject of the inquiry;
- (c) the person who pursuant to subsection 34(11) has requested that a Board be established. *1987,c.47,s.30.*

#### 30.1 Complainant's rights

In the investigation, hearing and discipline system, the Council shall ensure that a complainant is afforded

- (a) clear information about the investigation and discipline process;
- (b) opportunity to be informed, upon request, about progress in the handling of the complaint;
- (c) the option to be supported by a friend or representative;
- (d) opportunity to make statements and submit evidence;
- (e) the right to attend the proceedings of a Board of Inquiry concerning the complainant;
- (f) the option of being represented by legal counsel in an inquiry conducted by a Board of Inquiry, whether at the expense of the complainant or the College as determined by the Council;
- (g) the right to make a statement during proceedings he or she is attending if his or her conduct or character is put in question;
- (h) opportunity, where the member is found guilty in connection with the complaint, to submit a victim-impact statement to be taken into account in the assessment of a remedy or penalty; and
- (i) notification of the outcome of a complaint. *1997,c.30,s.4 {eff.} Sept. 8/98.*

### 31. Support services

The College, Complaints and Registration Committee, Fitness to Practise Committee, or Board of Inquiry may employ, at the expense of the College, such legal or other assistance as they consider necessary for the purposes of carrying out any inquiry by the Complaints and Registration Committee, Fitness to Practise Committee, or a Board of Inquiry. *1987,c.47,s.31.*

### 32. Professional misconduct

A member may be found to be guilty of professional misconduct if

- (a) he has been found guilty by a court of competent jurisdiction of an offence which, in the opinion of the Complaints and Registration Committee, the Fitness to Practise Committee, a Board of Inquiry or the Council, relates to his suitability to practise medicine, and proof of such finding of guilt has been furnished;

- (b) his rights or privileges under the *Food and Drugs Act* (Canada) R.S.C. 1985, Chap. F-27, or the regulations under that Act, have been restricted or withdrawn; or
- (c) he has committed a breach of any provision of this Act or the regulations relating to professional misconduct. *1987, c.47, s.32; 1997, c.30, s.5 {eff.} Sept. 8/98.*

### 32.1 Who may make complaint

- (1) Any person may make a complaint, directed to the Registrar, alleging that a member is guilty of professional misconduct or is an incapacitated or unfit member.

#### Form of complaint

- (2) A complaint may be initiated orally, and the Registrar may assist the complainant to clarify and formulate it, but a complaint may only be referred to the Complaints and Registration Committee, the Fitness to Practise Committee or a Board of Inquiry if it is in written or other recorded form and signed or attested by the complainant or the complainant's authorized representative, and gives the complainant's explicit permission to the Registrar and those investigating the allegation to obtain and use records and other information which may be necessary for that purpose.

#### Complaint for incapable person

- (3) A complaint may be made on behalf of an incapable person by a representative of that person.

#### Complaint by person other than patient

- (4) A complaint may be made by a person other than the patient who is alleged to have been affected by the member's professional misconduct, incapacity or unfitness, but must be based upon direct observation or first-hand knowledge of the alleged incident or practice. *1997, c.30, s.6 {eff.} Sept. 8/98.*

### 32.2 Report by member

- (1) A member who has knowledge, from direct observation or objective evidence, of another member's professional misconduct, incapacity or unfitness must report the known facts to the Registrar.

#### *Idem*

- (2) A person who dissolves a partnership with a member or an organization which terminates or imposes restrictions on the employment or privileges or other practice association with a member based on direct knowledge of the member's professional misconduct, incapacity or unfitness must report the known facts to the Registrar. *1997, c.30, s.6 {eff.} Sept. 8/98.*

### 32.3 Notice of offence affecting suitability

When a physician is charged with or found guilty of an offence which appears to affect suitability to practise,

- (a) the Crown Prosecutor, when the physician is charged; and
- (b) the Prothonotary or Deputy Registrar of the Supreme Court, or Clerk of Provincial Court, when the physician is found guilty,

shall so notify the Registrar. *1997, c.30, s.6 {eff.} Sept. 8/98.*



**32.4 Multiple complaints**

The Complaints and Registration Committee, Fitness to Practise Committee or a Board of Inquiry may deal with multiple complaints or referrals from the Council concerning a member severally or in combination. *1997,c.30,s.6 {eff.} Sept. 8/98.*

**32.5 Action pending outcome of disciplinary process**

- (1) On its own initiative or on recommendation of the Complaints and Registration Committee, Fitness to Practise Committee or a Board of Inquiry at any stage of an investigation and discipline process, if there appear to be
- (a) substantial evidence of a member's professional misconduct, incapacity or unfitness; and
  - (b) demonstrable risk of harm or injury to the member's patients or to the general public,
- the Council may, pending the outcome of the investigation and disciplinary process, take one or more of the following actions:
- (c) make public or otherwise disclose the fact that an inquiry or investigation into the practice or conduct of the member is under way;
  - (d) suspend or impose a condition on the member's license.

***Idem, urgent action***

- (2) Where there is
- (a) substantial evidence of a member's professional misconduct, incapacity or unfitness;
  - (b) demonstrable risk of harm or injury to the member's patients or to the general public; and
  - (c) evident need for urgent intervention to prevent immediate risk of harm,
- any two persons from among the Council's President, Vice-President, Registrar and Deputy Registrar may suspend the member's license with immediate effect for a period not to exceed ten days, within which time the matter shall be referred to the Council for decision on what action, if any, should be taken in accordance with subsection (1) or otherwise. *1997,c.30,s.6 {eff.} Sept. 8/98.*

**32.6 Mediation**

- (1) Wherever it thinks it appropriate, the Complaints and Registration Committee or Fitness to Practise Committee shall commend to the complainant and the affected member the alternative of mediation, that is, an effort mutually to resolve the complaint, allegation or suspicion informally without further investigation or disciplinary action.

**Notice to council**

- (2) If mediation resolves the matter, the Complaints and Registration Committee or Fitness to Practise Committee shall so notify the Council in writing, and if the Council is satisfied, there need be no further action.

**Failure of mediation**

- (3) Where the Complaints and Registration Committee or Fitness to Practise Committee believes that the attempt at mediation is not, or is not likely to be, successful, or where the Council is not satisfied, the investigation or other disciplinary action shall proceed. *1997,c.30,s.6 {eff.} Sept. 8/98.*

### **32.7 Closed, open proceedings**

The proceedings of the Complaints and Registration Committee and the Fitness to Practise Committee shall be closed to the public, but the proceedings of a Board of Inquiry shall be open to the public unless it appears to the chairperson that the public interest requires privacy, in which case the chairperson may direct that the proceedings, or a part of them, be closed.  
*1997, c.30, s.6 {eff.} Sept. 8/98.*

### **32.8 Protection of witness identity**

The Complaints and Registration Committee, Fitness to Practise Committee or a Board of Inquiry may, on the request of a witness whose testimony is of a confidential or sensitively personal nature, order that no person publish the identity of the witness or any information that could disclose the identity of the witness, and a person who violates such an order commits an offence punishable under section 62. *1997, c.30, s.6 {eff.} Sept. 8/98.*

## **33. Complaints and Registration Committee**

- (1) The Council shall maintain a standing committee which shall be known as the Complaints and Registration Committee.

### **Composition**

- (2) The Committee shall be composed of
- (a) two persons appointed by the Council who are members of the College, who may or may not be Council members, or members of the physician college of another province; and
  - (b) one lay member of the Council who was appointed to the Council by the Lieutenant Governor in Council under clause 7(c),

and such other persons as the members referred to in clauses (a) and (b) may co-opt as a member of the Committee.

### **Chairman**

- (3) The Council shall appoint one of the physician members of the Committee to be chairman of the Committee.

### **Quorum**

- (4) Three members of the Committee constitute a quorum.

### **Functions**

- (5) The Committee shall
- (a) consider and investigate complaints, including complaints referred by the Minister, regarding the actions or conduct of any member of the College;
  - (b) consider and investigate complaints, including complaints referred by the Minister, that any member of the College may be an unfit or incapacitated member; and
  - (c) perform such other duties as may be assigned to it by the Council.

### **Records, etc. to be produced**

- (5.1) The Committee may require the member to produce records and accounts relevant to an allegation or with respect to the member's practice, and permit the Committee to make and retain copies of them, and if the member fails to produce the required materials, the Council may suspend the member's license until the member does so.



**Conditions to be satisfied**

- (6) Subject to subsection (7), no action may be taken by the Committee under subsection (8) unless
- (a) a signed, written complaint has been filed with the Registrar, and the member complained against has been notified of the complaint and given at least two weeks to submit in writing to the Committee any explanations or representations he may wish to make concerning the matter; and
  - (b) the Committee has examined, or has made a reasonable effort to examine, all records and other documents relating to the complaint.

**Council reference**

- (7) The Council, on its own motion, may refer a matter to the Committee, notwithstanding that a written complaint has not been filed with the Registrar.

**Recommendations of Committee**

- (8) The Committee
- (a) may recommend that no further action be taken;
  - (b) may recommend that the matter be referred, in whole or in part, to the Fitness to Practise Committee; or
  - (c) may recommend that the matter be referred, in whole or in part, to a Board of Inquiry.

**Report**

- (9) The Committee shall, within 60 days of receiving the complaint, unless otherwise directed by the Council, report its findings and recommendations in writing to the Council.

**Disposition of complaint by Council**

- (10) Upon the Committee reporting to the Council,
- (a) the Council may adopt the recommendations of the Committee or may take such other actions as the Council considers appropriate;
  - (b) may make an order indicating the disposition of the complaint; and
  - (c) the Registrar shall cause to be served upon the member and the complainant a copy of the order of the Council.

**Request for reference to Fitness to Practise Committee**

- (11) Where the member or complainant is not satisfied with the order of the Council, except where it is ordered that the matter be referred to the Fitness to Practise Committee or a Board of Inquiry, the matter shall be referred to the Fitness to Practise Committee if the member or complainant files a written request to that effect with the Registrar within thirty days after the service of the order of the Council.

**Complaint against Committee member**

- (12) If a complaint against a member of the Committee is filed with the Registrar, that member shall be disqualified from participating on the Committee in its consideration and investigation of the complaint, and the Council shall appoint another member of the College to serve on the Committee for the purpose of consideration and investigation of the complaint. *1987, c.47, s.33; 1992, c.47, s.8 {eff.} July 1/92; 1997, c.30, s.7 {eff.} Sept. 8/98.*

**34. Fitness to Practise Committee**

- (1) The Council shall maintain a standing committee which shall be known as the Fitness to Practise Committee.

**Composition**

- (2) The Committee shall be composed of
- (a) two persons who are members of the College, who may or may not be Council members, or members of the physician college of another province, and who are not members of the Complaints and Registration Committee; and
  - (b) the lay member of the Council who was appointed to the Council by the Lieutenant Governor in Council under clause 7(1)(c), who is not a member of the Complaints and Registration Committee,

who shall be voting members of the Committee, and

- (c) the Registrar and the President who shall be non-voting members of the Committee.

**Chairman**

- (3) The Council shall appoint one of the physician members of the Committee to be chairman of the Committee.

**Quorum**

- (4) The three voting members of the Committee shall constitute a quorum.

**Functions**

- (5) The Committee shall
- (a) consider and investigate written complaints regarding the actions or conduct of any member of the College;
  - (b) consider and investigate written complaints that a member may be an incapacitated or unfit member; and
  - (c) perform such other duties as may be assigned to it by Council.

**Council reference**

- (6) The Council, on its own motion, may refer a matter to the Committee, notwithstanding that a written complaint has not been filed with the Registrar.

**Authority**

- (7) The Committee
- (a) may make rules under which its investigation is to be held, and may do all things necessary to provide a full and proper investigation;
  - (b) shall consider the allegations, hear the evidence and ascertain the facts of each case in such manner as it considers fit; and
  - (c) in the case of a complaint that a member is an incapacitated or unfit member,
    - (i) may require the member to submit to physical or mental examinations by such qualified persons as the Committee designates, and if the member fails to submit to examinations, the Committee may recommend to the Council that his license be suspended until he does so,
    - (ii) may require the member to undergo such clinical or other examinations as the Committee designates to determine whether the member has adequate skill and knowledge to practise medicine, and if the member fails to undergo



examinations, the Committee may recommend to the Council that his license be suspended until he does so, and

- (iii) may require the member to produce records and accounts kept with respect to his practice, and permit the Committee to make and retain copies of them, and if the member fails to produce records and accounts, the Committee may recommend that his license be suspended until he does so.

#### Recommendations of Committee

- (8) The Committee shall, within 90 days of receiving a complaint, unless otherwise directed by the Council, report its findings and recommendations in writing to the Council and
  - (a) may recommend that no further action be taken;
  - (b) may recommend that the matter be referred, in whole or in part, to a Board of Inquiry;
  - (c) may find that the member is guilty of professional misconduct and recommend that
    - (i) the license of the member be revoked, and that his name be stricken from the registers in which it is entered,
    - (ii) the license of the member be suspended
      - (A) for a fixed period, or
      - (B) for an indefinite period until the occurrence of some specified future event,
    - (iii) restrictions be imposed on the license of the member for such period and subject to such conditions as the Committee considers necessary,
    - (iv) such fine as the Committee considers appropriate, to a maximum of \$25,000, be paid by the member to the College,
    - (v) the member be reprimanded and, if considered warranted, that the fact of reprimand be recorded in the registers in which his name is entered, or
    - (vi) imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee determines;
  - (d) may find that a member is an incapacitated or unfit member and recommend that one or more of the following actions be taken:
    - (i) the license of the member be revoked and that his name be stricken from the registers in which it is entered,
    - (ii) the license of the member be suspended
      - (A) for a fixed period, or
      - (B) for an indefinite period until the occurrence of some specified future event,
    - (iii) restrictions be imposed on the license of the member for such period and subject to such conditions as the Committee designates, or
    - (iv) the member undergo such treatment or *re*-education as the Committee considers necessary; and
  - (e) shall report its findings and recommendations in writing to the Council.

#### Fine

- (9) The fine provided for in subclause (8)(c)(iv) may be recommended in addition to or in lieu of any recommendations under subclauses (8)(c)(i), (ii), (iii), (v) or (vi).

**Copy to complainant**

- (10) Upon the Committee reporting to the Council, the Registrar shall cause to be served upon the member and complainant a copy of the findings and recommendations of the Committee.

**Request for reference to Board**

- (11) The member or the complainant may, within thirty days after the service of the findings and recommendations of the Committee, request the Council that a Board of Inquiry be established to hear and determine the matter complained of, or any part thereof.

**Order of Council**

- (12) Where the Committee has found a member to be guilty of a professional misconduct, or has found that the member is an incapacitated or unfit member, the Council may, upon the expiry of thirty days after the service of the findings and recommendations of the Committee, adopt the recommendations of the Committee or in that or any other case may make such order as the Council considers just.

**Service**

- (13) The Registrar shall cause to be served on the member and the complainant a copy of the order of the Council.

**Effective date of order**

- (14) The order of the Council has effect immediately on the service thereof on the member, or from such time as the order may direct, but the Court of Appeal or any judge thereof may stay that order upon good cause being shown pending an appeal of the order, or such further hearing as may be ordered by the Court of Appeal.

**Complaint against Committee member**

- (15) In the event a complaint against a member of the Committee is filed with the Registrar, or a matter referred to the Committee by the Council with respect to a member of the Committee, that member shall be disqualified from participation on the Committee in its consideration of the matter, and the Council shall appoint another member of the College to participate on the Committee in its consideration and investigation of the matter. *1987, c.47, s.34; 1992, c.47, s.9 [eff.] July 1/92; 1997, c.30, s.8 [eff.] Sept. 8/98; 2008, c.20, s.72(60).*

**35. Board of Inquiry**

- (1) The Council may appoint a Board of Inquiry for the purposes of determining any allegations of professional misconduct by a member, or any allegation that a member is an incapacitated or unfit member
- (a) on its own motion;
  - (b) when the Fitness to Practise Committee or Complaints and Registration Committee recommends that a matter be referred in whole or in part to a Board of Inquiry; or
  - (c) when a complainant or a member of the College makes a request in writing pursuant to subsection 34(11).

**Composition**

- (2) A Board shall be composed of the chairman and two other persons who may or may not be members of the College and who may be members of the Council.

**Chairman**

- (3) The Council shall appoint a barrister as chairman of the Board.



**Quorum**

- (4) All the members of the Board shall constitute a quorum.

**Security for costs**

- (5) When a Board is established as the result of a request therefor under subsection 34(11), the Council may direct that the person making the request give security for the costs of the Council and of all parties to the inquiry, in such amounts and at such times and in such manner and form as the Council shall direct.

**Rules**

- (6) A Board may make the rules under which the inquiry is to be held, and may do all things necessary to provide a full and proper inquiry.

**Testimony of witnesses**

- (7) The testimony of witnesses shall be taken under oath which the chairman of the Board is authorized to administer, and there shall be a full right to examine, cross-examine and re-examine witnesses.

**Subpoenas**

- (8) Upon the application of
- (a) any party to the inquiry;
  - (b) the chairman of the Board; or
  - (c) the counsel for the College or Board,

the Registrar may issue subpoenas to give testimony or produce documents for the purposes of procuring the attendance and evidence of witnesses before the Board.

**Rules of evidence**

- (9) The rules of evidence in an inquiry, and the proceedings and penalties in the case of disobedience to any subpoena, shall be the same as in civil cases in the Supreme Court.

**Record**

- (10) The Board
- (a) shall have the proceedings and the evidence taken in shorthand, transcribed and certified by a court transcriber certified in accordance with section 5 of the *Court Reporters Act* R.S.P.E.I. 1988, Cap. C-27.03;
  - (b) shall have the proceedings and the evidence recorded by a sound recording machine, and transcribed and certified by a court transcriber certified in accordance with section 5 of the *Court Reporters Act* R.S.P.E.I. 1988, Cap. C-27.03.

**Non-attendance of member complained against**

- (11) It is the duty of the member whose conduct or fitness to practise is being inquired into to appear at the inquiry, but in the event of non-attendance by that member, the Board, upon proof by an affidavit of the service of notice required under subsection (12), may proceed with the inquiry, and without further notice to the member, make a report of its findings and take such other action as it is authorized to take under this Act.

**Service of notices**

- (12) A notice of inquiry shall be served at least fourteen days before the holding of the inquiry upon the member whose conduct or fitness to practise is being inquired into, and upon any person who has requested that a Board be established under subsection 34(11).

**Content of notice**

- (13) A notice of inquiry shall state the subject matter of the inquiry and the time and place of the holding of the inquiry, and shall be signed by the Registrar, or the chairman of the Board.

**Functions of Board**

- (14) A Board

- (a) shall consider the allegations, hear the evidence and ascertain the facts of each case in such manner as it considers fit;
- (b) in the case of a complaint that a member is an incapacitated or unfit member
  - (i) may require the member to submit to physical or mental examinations by such qualified persons as the Board designates and if the member fails to submit to examinations, the Board may recommend to Council that the license of the member be suspended until he does so,
  - (ii) may require the member to undergo such clinical or other examinations as the Board designates to determine whether the member has adequate skill and knowledge to practise medicine, and if the member fails to undergo examinations, the Board may recommend to Council that the license of the member be suspended until he does so, and
  - (iii) may require the member to produce records and accounts kept with respect to his practice, and permit the Board to make copies of them, and if the member fails to produce records and accounts, the Board may recommend to Council that the license of the member be suspended until he does so;
- (c) shall determine whether the member is guilty of professional misconduct or is an incapacitated or unfit member;
- (d) where it finds that the member is guilty of professional misconduct may recommend to the Council that one or more of the following actions be taken:
  - (i) the license of the member be revoked, and that his name be stricken from the registers in which it is entered,
  - (ii) the license of the member be suspended
    - (A) for a fixed period, or
    - (B) for an indefinite period until the occurrence of some specified future event,
  - (iii) restrictions be imposed on the license of the member for such period and on such conditions as the Board designates,
  - (iv) the member be reprimanded, and, if deemed warranted, that the fact of reprimand be entered in the registers in which his name is entered,
  - (v) such fine as the Board considers appropriate to a maximum of \$25,000 be paid by the member to the College, or
  - (vi) the imposition of a penalty be suspended for such period and upon such terms as the Board considers appropriate; or
- (e) where it finds that the member is an incapacitated or unfit member, may recommend to Council that one or more of the following actions be taken:
  - (i) the license of the member be revoked and that his name be stricken from the registers in which it is entered,
  - (ii) the license of the member be suspended
    - (A) for a fixed period, or



- (B) for an indefinite period until the occurrence of some specified future event,
- (iii) restrictions be imposed on the license of the member for such period and subject to such conditions as the Board considers necessary, and
- (iv) that the member undergo such treatment or *re*-education as the Board considers necessary; and
- (f) shall report its findings and recommendations in writing to the Council.

**Fine**

- (15) The fine provided for in subclause (14)(d)(v) may be recommended in addition to or in lieu of any punishment recommended under subclauses (14)(d)(i), (ii), (iii), (iv) or (vi).

**Report to Council**

- (15.1) A Board shall, within 30 days of being convened unless otherwise directed by the Council, report its findings and recommendations in writing to the Council.

**Disposition of matter by Council**

- (16) Upon the Board reporting its findings and recommendations to the Council
- (a) the Registrar shall cause to be served on the member and the person at whose request the Board was established, a copy of the report and recommendations of the Board; and
  - (b) the Council may adopt the recommendations of the Board and may make such order indicating the disposition of the matter as the Council considers just.

**Service**

- (17) The Registrar shall cause to be served on the member and the person at whose request the Board was established a copy of the order of the Council.

**Effective date of order**

- (18) The order of the Council has effect immediately on the service thereof on the member, or from such time as the order may direct; but the Court of Appeal or any judge thereof may stay the order upon good cause shown pending an appeal from the order, or such further hearing as may be ordered by the Court of Appeal.

**Order takes effect immediately**

- (19) Notwithstanding subsection (18), an order made by the Council that restrictions or conditions be imposed on a member's license or that it be suspended or revoked as a result of a finding that a member is guilty of incapacity, unfitness to practise or sexual abuse of a violating nature as described in clause 38.1(2)(c) or a recurrent pattern of other sexual abuse, takes effect immediately despite any appeal under section 37. *1987, c.47, s.35; 1997, c.30, s.9 [eff.] Sept. 8/98; 2008, c.20, s.72(60).*

**36. Costs**

- (1) When the Council, after an inquiry by the Fitness to Practise Committee or the Board, orders
- (a) that the license of a member be revoked or suspended;
  - (b) that restrictions be imposed on the license of a member,
- or
- (c) that a member be reprimanded,

the Council may order that the member pay

- (d) the costs of the Council, in whole or in part; and
- (e) if applicable, the costs, in whole or in part, of the person at whose request the Board was appointed.

**Idem**

- (2) When a Board appointed pursuant to a request under subsection 34(11) finds that the inquiry was unwarranted, the Council may order that the person at whose request the Board was appointed pay
  - (a) the costs of the Council, in whole or in part;
  - (b) if applicable, the costs, in whole or in part, of the member whose conduct or fitness to practise was inquired into; and
  - (c) if applicable, the costs, in whole or in part, of the person at whose request the Board was appointed.

**Taxation**

- (3) The costs payable under subsection (1) or (2) may be taxed by the Prothonotary as between solicitor and client on filing with the Prothonotary the order of the Council and on payment of the fees prescribed by the rules of court, and judgment may be entered for such taxed costs.

**Deposit**

- (4) The Council shall apply a deposit made under subsection 35(5) to costs taxed and allowed by the Prothonotary.

**Idem**

- (5) Where the costs taxed and allowed by the Prothonotary exceed the amount of the deposit made under subsection 35(5), the Council shall apply the deposit proportionately to the costs.

**Idem**

- (6) The Council shall return the portion of a deposit made under subsection 35(5) which is not applied under subsection (4) or (5) to costs taxed and allowed by the Prothonotary to the person who made the deposit when the matter is disposed of by the Council, or on the disposition of any appeal.

**Definition**

- (7) In this section, “**costs of the Council**” includes
  - (a) expenses incurred by the Council, the Complaints and Registration Committee, the Fitness to Practise Committee and the Board; and
  - (b) honoraria paid to members of the Fitness to Practise Committee and the Board,and shall be deemed to be solicitor and client costs. *1987, c.47, s.36; 2008, c.20, s.72(60).*

**36.1. Notice by Council to affected interests**

Where a member’s license is restricted, suspended or revoked by disciplinary order, the Council shall without delay

- (a) so notify
  - (i) the Minister,
  - (ii) the administrator of the medical services plan under the *Health Services Payment Act* R.S.P.E.I. 1988, Cap. H-2, and



- (iii) the operator of any hospital, clinic or other facility by which the member is paid or at which the member has practising privileges or a practising association, and
- (iv) such other persons as may be prescribed; and
- (b) cause the disciplinary action to be made public, with the reasons or a summary of them,

and the Registrar shall report the disciplinary action and reasons and the current status of the member's license to any person who subsequently requests information from the register about the member's entitlement to practise. *1997, c.30, s.10 {eff.} Sept. 8/98.*

### **37. Appeal to Appeal Division of Supreme Court**

- (1) Any party to a proceeding before the Board or the Fitness to Practise Committee may appeal from
  - (a) the findings of the Board; or
  - (b) an order of the Council

to the Court of Appeal by giving notice of appeal within thirty days of service of the order of the Council or within such further time as may be allowed by the Court of Appeal or a judge thereof.

#### **Notice of appeal**

- (2) The notice of appeal shall be served upon the Registrar and upon any person at whose request the Board was established.

#### **Record**

- (3) The record of appeal
  - (a) from the findings of the Board shall consist of a copy of the transcript of the proceedings and the evidence before the Board certified by the chairman of the Board as being the record made of the proceedings and the evidence; or
  - (b) from an order of the Council shall consist of a copy of the order of the Council and the findings and recommendations of the Fitness to Practise Committee or the Board certified by the Registrar.

#### **Further evidence**

- (4) The Court of Appeal may receive and consider any further evidence which it considers relevant.

#### **Costs**

- (5) The Court of Appeal may make such order as to costs as may be just. *1987, c.47, s.37; 2008, c.20, s.72(60).*

### **37.1 Discipline of former member**

A person whose license is suspended or revoked or who resigns as a member continues to be subject to the jurisdiction of the College with respect to any professional misconduct, incapacity or unfitness to practise which may have occurred before the suspension, revocation or resignation. *1997, c.30, s.11 {eff.} Sept. 8/98.*

**38. Minimum period, conditions before application for reinstatement**

- (1) In making an order of revocation of license under subsection 34(12) or 35(16) the Council may, subject to section 38.3 and following such criteria as may be prescribed or established in policy, specify as part of the order a minimum time and conditions to be fulfilled before an application for *re*-instatement under this section is to be allowed.

**Reinstatement**

- (2) A person whose license has been revoked by an order of the Council under subsection 34(12) or subsection 35(16) may, at the expiration of one year from the making of the order or such other period as may have been specified in the order, apply to the Council for
- (a) the entering of his name, address and qualifications on the Medical Register, Temporary and Limited Register, and any other applicable register; and
  - (b) the issuance of a license.

***Idem***

- (3) The Council, upon
- (a) being satisfied as to the intention of the person to practise medicine in the province;
  - (b) being satisfied as to the professional activities of the person since the time of the order of the Council;
  - (c) the person producing a letter of good standing from all jurisdictions in which he has practised medicine since the date of the order of the Council; and
  - (d) the person undergoing such clinical or other examination as the Council may designate,
- may direct the Registrar
- (e) to enter the name, address and qualifications of that person in the Medical Register or Temporary and Limited Register or other applicable register;
  - (f) to issue a license to that person,
- upon such terms and conditions as the Council may direct.

**Evidence of rehabilitation, etc.**

- (4) Notwithstanding subsection (3), the Council shall not *re*-instate a person whose license has been revoked
- (a) if there are any unresolved complaints, investigations or disciplinary actions against the person, whether in the province or another jurisdiction;
  - (b) unless any conditions ordered under subsection (1) have been fulfilled; and
  - (c) unless there is firm evidence of successful rehabilitation, retraining or change of circumstance that ensures acceptable practice and patient safety.

**Probationary reinstatement**

- (5) Notwithstanding subsection (3), the Council shall make any *re*-instatement probationary, subject to a specified period of monitoring and review before a decision to *re*-instate is confirmed. *1987,c.47,s.38; 1997,c.30,s.12 [eff.] Sept. 8/98.*



**SEXUAL ABUSE****38.1 No tolerance of sexual abuse**

- (1) Sexual abuse is a serious form of professional misconduct which is not to be tolerated; the Council shall ensure that complaints of sexual abuse are properly investigated and that, where misconduct is substantiated, strong disciplinary action is taken.

**Definition**

- (2) In this section and sections 38.2 to 38.5,  
“**sexual abuse**” means any sort of sexual conduct by a member toward or with a patient, at any time during which the person is considered to be a patient of the member, whether by
- (i) a remark, gesture or other behaviour of a sexual nature toward the patient, or by subjecting the patient to a position or state of undress, which appears intended to be erotic, seductive or demeaning,
  - (ii) touching in a sexual manner, or
  - (iii) violating behaviour, namely, sexual intercourse, other physical sexual relations including genital to genital, genital to anal, oral to genital, or oral to anal contact, masturbation by or of either party or encouragement of the patient to masturbate in the presence of the member.

**Exception**

- (3) Sexual conduct is not considered to be sexual abuse where
- (a) the patient and member are spouses;
  - (b) the member has provided a medical service on the basis of urgency or other isolated-instance necessity to a person who is not normally a patient of the member and who has an already established sexual relationship with the member; or
  - (c) the doctor-patient relationship has been formally terminated and there is no expectation that any further medical care will be provided by the member to the other person.

**Former patient**

- (4) Notwithstanding clause (3)(c) and notwithstanding the termination of care by the member, sexual conduct toward or with a former patient
- (a) is considered to be sexual abuse, where the former patient was, during the member’s care, or is currently, a minor; or
  - (b) may be considered to be sexual abuse where the former patient
    - (i) was, during the member’s care, or is currently, suffering from a judgement-impairing disorder; or
    - (ii) received psychotherapy or psychiatric counselling from the member.  
*1997,c.30,s.13 [eff.] Sept. 8/98; 2001,c.12,s.5,s.6.*

**38.2 Report**

- (1) A member who has knowledge or has reasonable and probable cause to suspect that another member has committed sexual abuse must report or cause to be reported the circumstances to the Registrar, and shall provide such additional information as is known or available to the member.

**Obligations when making report**

- (2) Before making such report a member shall
- (a) inform the patient of the member's statutory obligation to report;
  - (b) encourage the alleged victim, if possible, to make a complaint to the Registrar and to be willing to provide information.

**Disclosure of identity**

- (3) In providing information under subsection (1), a member shall not identify the alleged victim unless that person, or if that person is incapable the person's representative, consents to inclusion of the person's identity. *1997,c.30,s.13 {eff.} Sept. 8/98.*

**38.3 Revocation of license**

- (1) The Council shall revoke the license of a member who has been found guilty under section 34 or 35 of sexual abuse of a violating nature as described in clause 38.1(2)(c), or of a recurrent pattern of other sexual abuse.

**Minimum period before reinstatement**

- (2) Notwithstanding subsection 38(1), where a member's license is revoked under subsection (1), the minimum time before which the member may apply for *re*-instatement pursuant to subsection 38(2) is five years from the making of the revocation order. *1997,c.30,s.13 {eff.} Sept. 8/98.*

**38.4 Fine for costs of therapy**

Where a member is found guilty of sexual abuse, the Council may, as a part of the penalty or remedy ordered under subsection 34(12) or 35(16), levy a fine to be used for the purpose of paying for the costs of counselling or therapy which the Council believes to be necessary for the victims of the sexual abuse. *1997,c.30,s.13 {eff.} Sept. 8/98.*

**38.5 Educational programs**

The Council shall, with the assistance of the Society, have a continuing program for the purposes of preventing and dealing with sexual abuse, including the following elements:

- (a) obligatory training for all physicians in matters of the law, unacceptable behaviour, warning signals, prevention tactics;
- (b) public-awareness education in matters such as warning signals, avoidance tactics, actions to take if abused;
- (c) publication of guidelines for physician conduct with patients to prevent abuse;
- (d) publication of procedures for making complaints respecting sexual abuse and for carrying out investigation and discipline;
- (e) an annual report to the Minister, for each of the five years following the start of the program, which provides information on the volume and nature of complaints respecting sexual abuse and consequent investigation and discipline. *1997,c.30,s.13 {eff.} Sept. 8/98; 2001,c.12,s.7.*



**PART IV.1 — PEER ASSESSMENT****38.6 Definitions**

- (1) In this section and in sections 38.7 and 51
- (a) “**agreement**” means the agreement among any or all of the Licensing Authorities or Medical Societies in the Provinces of New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland referred to in subsection (3);
  - (b) “**assessment**” means an assessment pursuant to a peer assessment program established under this section;
  - (c) “**assessors**” means the assessors appointed by the Peer Assessment Committee under subsection (5);
  - (d) “**Licensing Authorities**” means the College of Physicians and Surgeons of New Brunswick, the Provincial Medical Board of Nova Scotia, the College of Physicians and Surgeons of Prince Edward Island, and the Newfoundland Medical Board, or their successors;
  - (e) “**Medical Societies**” means the New Brunswick Medical Society, the Medical Society of Nova Scotia, the Medical Society of Prince Edward Island, Canadian Medical Association, Prince Edward Island Division, and the Newfoundland Medical Association, or their successors.

**Peer Assessment Committee**

- (2) The Council may establish a Peer Assessment Committee.

**Agreements**

- (3) The College may
- (a) enter into an agreement with any or all of the other Licensing Authorities and Medical Societies for the establishment of a Peer Assessment Committee; and
  - (b) agree with the other Licensing Authorities and Medical Societies to amend the agreement from time to time.

**Terms of agreement**

- (4) The agreement shall
- (a) authorize the Peer Assessment Committee to do or cause to be done, on behalf of the parties, any or all such things as the parties thereto are otherwise empowered to do and consider necessary for the development and administration of a peer assessment program;
  - (b) provide for the financing of the operations of the Peer Assessment Committee and for cost-sharing arrangements;
  - (c) provide for the preparation of an annual budget and its approval by the Licensing Authorities and Medical Societies;
  - (d) provide for equal representation from each of the Licensing Authorities and Medical Societies that are signatories to the agreement;
  - (e) provide for the incorporation of the Peer Assessment Committee if considered advisable to achieve the objectives of the Committee; and
  - (f) contain such other provisions as may be necessary or desirable to provide for the administration of the Peer Assessment Committee and for its operations.

**Membership**

- (5) The Peer Assessment Committee may appoint members of the College or persons licensed as medical practitioners in Nova Scotia, New Brunswick, or Newfoundland, or in other provinces of Canada, as assessors for the purposes of the application of the peer assessment program to members of the College.

**Peer Assessment Program**

- (6) Subject to the approval of the Council, the Peer Assessment Committee shall develop and administer a peer assessment program, including
- (a) the assessment of the standards of practice of members including, but not limited to
    - (i) standards for the clinical assessment and care of patients, and
    - (ii) standards for the maintenance of records of care administered to patients;
  - (b) the selection and education of assessors;
  - (c) communication with physicians to be assessed;
  - (d) budgetary and expense arrangements;
  - (e) the preparation of assessment reports;
  - (f) the development of policy and procedures of the Peer Assessment Committee and their delegation to subcommittees, assessors, or employees as the Committee considers appropriate; and
  - (g) such further activities, including the establishment of other committees or subcommittees, for the better administration of the peer assessment program.

**Co-operation**

- (7) Every member whose standards of practice are the subject of an assessment shall co-operate fully with the Peer Assessment Committee and assessors.

**Obligations of member**

- (8) Without limiting the generality of the co-operation required by subsection (7), a member shall
- (a) permit assessors to enter and inspect the premises where the member engages in the practice of medicine;
  - (b) permit the assessors to inspect the member's records of care administered to patients;
  - (c) provide to the Peer Assessment Committee and assessors, in the form required, information requested by the Committee or assessors, as the case may be, in respect of the clinical assessment and care of patients by the member or the member's records of care administered to patients;
  - (d) confer with the Peer Assessment Committee or assessors when required to do so by the Committee or assessors;
  - (e) permit the reassessments the Peer Assessment Committee or assessors consider necessary for the proper administration of a peer assessment program; and
  - (f) comply with the remedial recommendations of the Peer Assessment Committee.

**Report of assessor**

- (9) Upon completion of an assessment, an assessor shall report to the Peer Assessment Committee who may
- (a) receive the report of the assessor and make no recommendations to the member assessed; or



- (b) confer with the member assessed and make any remedial recommendations to him as the Committee considers appropriate, and direct the member to comply with the recommendations.

#### **Costs**

- (10) Costs incurred by the member in implementing the remedial recommendations made by the Committee shall be payable by the member and shall not be the responsibility of the Peer Assessment Committee, the Licensing Authorities or the Medical Societies.

#### **Reference back to College to institute complaint**

- (11) Where an assessor or a member of the Peer Assessment Committee learns, in the course of an assessment, that a member of the College may be guilty of professional misconduct, or may be incapacitated or unfit to practise, the assessment shall be terminated, the member shall be advised, and the matter shall be referred to the College to be dealt with as a complaint.

#### **Information from assessor**

- (12) The assessor or a member of the Peer Assessment Committee shall not provide any information to the College except the information necessary to identify the nature of the complaint.

#### **Evidence from other sources**

- (13) Nothing in subsection (12) prevents any other person from providing evidence to establish the professional misconduct, incapacity or fitness to practise of a member.

#### **Annual report of Committee**

- (14) Each year the Peer Assessment Committee shall prepare and publish a report on its activities for the preceding year. *1993,c.32,s.3; 1997,c.30,s.14,s.15 [eff.] Sept. 8/98.*

### **38.7 Definitions**

- (1) In this section
  - (a) “**legal proceeding**” means
    - (i) a proceeding in any court, including a proceeding for the imposition of punishment by fine, penalty or imprisonment to enforce an Act or a regulation made under that Act, or any civil proceeding, and
    - (ii) a disciplinary proceeding pursuant to this Act or pursuant to the governing legislation of any of the other Licensing Authorities;
  - (b) “**witness**” means any member or associate member or officer or employee of the College, any assessor or former assessor, and any other person who, in connection with, or in the course of, a legal proceeding is called upon to provide information, to answer, orally or in writing, a question, or to produce a document, whether under oath or not.

#### **Witnesses**

- (2) A witness in a legal proceeding, whether a party or not, is excused from
  - (a) providing any information obtained by the witness in the course of or in relation to an assessment; and
  - (b) producing any document made by the Peer Assessment Committee, or by an assessor appointed under this section, or any other document that was prepared pursuant to or in relation to an assessment.

**Records**

- (3) Subsection (2) does not apply to
- (a) records maintained by hospitals as required by the Hospitals Act or regulations; or
  - (b) medical records maintained by attending physicians pertaining to a patient.

**Witness not excused**

- (4) Notwithstanding that a witness
- (a) is or has been an assessor or a member of, or a member of a subcommittee of;
  - (b) has participated in the activities of; or
  - (c) has prepared a document for or has provided information to,

the Peer Assessment Committee, the witness is not, subject to subsection (2), excused from answering any question or producing any document that the witness is otherwise bound to answer or produce.

**Information disclosed to assessor or Committee**

- (5) An assessor or a member of the Peer Assessment Committee shall not provide evidence against a member in a disciplinary matter with respect to information given by the member to the assessor or a member of the Peer Assessment Committee in the course of an assessment of the member unless the member has knowingly given false information during the assessment or the disciplinary matter.

**Evidence from other sources**

- (6) Nothing in subsection (5) prevents any other person from providing evidence against a member in a disciplinary matter with respect to the information given by the member in the course of his assessment. *1993,c.32,s.3; 1997,c.30,s.14 {eff.} Sept. 8/98.*

**39. Associate and former members**

Sections 30 to 38.7 and all regulations and bylaws under this Act which are applicable to members of the College apply with all necessary modifications to former members, associate members, and former associate members unless otherwise expressly provided by this Act, the regulations, or the bylaws. *1993,c.32,s.3.*

**PART V — THE MEDICAL SOCIETY OF PRINCE EDWARD ISLAND**

**40. Society continued by previous Act**

- (1) The Medical Society of Prince Edward Island, Canadian Medical Association, Prince Edward Island Division continued by section 2 of the previous Act is hereby continued as a body corporate.

**Objects**

- (2) The objects of the Society are
- (a) the advancement of medical science in all of its branches, the promotion of health and the improvement of medical services;
  - (b) the prevention of disease in co-operation with health officers and all others engaged in such works;
  - (c) the promotion of the professional interests of its members and of the status of the medical profession;



- (d) the representation of its members in relations with national bodies, government and other health agencies and professional organizations;
- (e) the provision of a fee guide for members; and
- (f) the consideration of all matters concerning the good and welfare of members of the Society.

**Powers**

- (3) The Society may do such things as it considers appropriate to advance the objects of the Society and in particular the Society may
  - (a) promote medical science and related arts and sciences;
  - (b) promote measures designed to improve standards of hospital and medical services;
  - (c) borrow money to carry on its business and affairs and give security for any money borrowed;
  - (d) invest its money in such manner as it sees fit;
  - (e) establish local and regional districts;
  - (f) fix and collect fees payable to it by its members;
  - (g) enter into agreements respecting its business and affairs;
  - (h) publish or promote the publication of journals, newsletters, reports, brochures or other papers relative to its interests;
  - (i) act as an agent within the province of the Canadian Medical Association or other association representing medical practitioners, and may collect and remit fees levied by any such association;
  - (j) receive gifts and bequests from any person and may make gifts to promote its interests;
  - (k) act on behalf of any of its members; and
  - (l) do all such other things as are desirable to carry on its business and affairs.

**Bargaining agent**

- (4) The Society is hereby constituted the sole bargaining agent on behalf of its members in all negotiations with respect to fees for services rendered in the practice of medicine. *1987, c.47, s.40.*

**41. Membership**

- (1) The membership of the Society at the coming into force of this Act shall consist of those persons registered and licensed under the previous Act.

**New members**

- (2) A person who is registered in the Medical Register and holds a license is entitled to be a member of the Society and to have full voting rights therein upon payment of the prescribed membership fees.

**Classes of membership**

- (3) Subject to the bylaws, the Society may admit persons to different classes of membership in the Society. *1987, c.47, s.41.*

**42. Head office**

The Society shall maintain its head office in the province. *1987, c.47, s.42.*

**43. Board**

- (1) There shall be a Board of Directors of the Society, to be elected from its members.

**Existing executive**

- (2) Notwithstanding subsection (1), the persons who at the coming into force of this Act make up the executive of the Society under the previous Act shall constitute the Board of Directors until the election of members to the Board of Directors under subsection (1).

**Functions**

- (3) The Board of Directors shall, subject to this Act, govern, control and administer the affairs of the Society. *1987,c.47,s.43.*

**44. Annual meeting**

- (1) Subject to the bylaws, there shall be an annual meeting at such time and place as the Board of Directors may determine.

**Other meetings**

- (2) Subject to the bylaws, the Society may hold such general or special meetings as are necessary. *1987,c.47,s.44.*

**45. Officers**

The persons who at the coming into force of this Act are the officers of the Society under the previous Act, shall continue to hold office until new officers are elected or appointed under this Act to succeed them. *1987,c.47,s.45.*

**46. Authority**

- (1) The Society may make bylaws
- (a) prescribing the terms and conditions for membership in the Society;
  - (b) prescribing various classes of membership and the fees payable therefor;
  - (c) respecting the code of ethics and honor and integrity of the medical profession;
  - (d) respecting the cooperation of its members in the protection of their rights;
  - (e) respecting assistance to medical associations and agencies engaged in health services;
  - (f) providing for the election or appointment of members of the Board of Directors and officers of the Society, and prescribing their duties;
  - (g) providing for the establishment of committees;
  - (h) providing for the establishment of local and regional districts;
  - (i) respecting the calling of meetings and the procedure thereof including the fixing of quorums; and
  - (j) for the better administration of the Society.

**Procedure for approval**

- (2) A bylaw made under subsection (1) has effect only if
- (a) notice of motion of the bylaw is given in writing to all voting members of the Society at least one month prior to the annual meeting at which the bylaw is to be considered; and



- (b) two-thirds of the voting members of the Society present at the meeting vote in favour of the bylaw. *1987,c.47,s.46.*

## PART VI — MISCELLANEOUS AND GENERAL

### *Professional Corporations*

#### **47. Application of Act to members of professional corporations**

- (1) The relationship of a member or associate member to a professional corporation, whether as a shareholder, director, officer or employee, does not affect, modify or diminish the application to him of the provisions of this Act, the regulations or bylaws.

#### **Liability unaffected**

- (2) The liability of any person carrying on the practice of medicine is not affected by the fact that the practice of medicine is carried on by that person as an employee of and on behalf of a professional corporation. *1987,c.47,s.47.*

#### **48. Physician to patient relationship**

- (1) Nothing contained in this Act shall affect, modify or limit any law applicable to the confidential or ethical relationships between a medical practitioner and a person receiving the professional services of a medical practitioner.

#### ***Idem***

- (2) The relationship between a professional corporation carrying on the practice of medicine and a person receiving the professional services of the corporation is subject to all applicable laws relating to the confidential and ethical relationship between a medical practitioner and his patient.

#### **Confidentiality, officers of corporations**

- (3) All rights and obligations pertaining to communications made to, or information received by, medical practitioners apply to the shareholders, directors, officers and employees of a professional corporation. *1987,c.47,s.48.*

### *Limitation of Actions*

#### **49. Limitation period**

No action shall be brought against a member or associate member for negligence or malpractice by reason of professional services given or rendered by him but within

- (a) two years from the date that the alleged negligence occurred; or  
(b) if not discovered within that period, two years from the date of discovery of facts upon which the allegation of negligence may be based,

but such action shall not be brought more than six years from the date of termination of treatment except where

- (c) there is evidence of fraudulent concealment of the facts; or  
(d) a non-therapeutic foreign object is found within the body after surgery. *1987,c.47,s.49.*

### *Liability*

#### **50. Limited liability in circumstances where first aid or emergency treatment rendered outside office or hospital**

Where in this province

- (a) a member or associate member of the College; or
- (b) a physician or surgeon entitled to practise medicine in this province or any other province or country,

voluntarily renders first aid or emergency treatment without the expectation of monetary compensation to a person outside of a hospital or doctor's office, or in any other place not having proper and necessary medical facilities, that member, associate member, physician or surgeon shall not be liable for the death of that person, or damages alleged to have been sustained by that person by reason of an act in the rendering of first aid or emergency treatment unless it is established that injuries were, or the death was caused by conduct on the part of the member, associate member, physician or surgeon, which, if committed by a person of ordinary experience, learning and skill, would constitute negligence. *1987,c.47,s.50.*

#### **51. Liability**

No action for damages lies against the Licensing Authorities, Medical Societies or the Peer Assessment Committee, the Registrar, an officer or employee of the Licensing Authorities, Medical Societies or the Peer Assessment Committee, an assessor, a member of a committee or subcommittee of the Licensing Authorities, Medical Societies or the Peer Assessment Committee, or a member of the Council or of a committee of Council, a member of the Complaints and Registration Committee or of a Board of Inquiry

- (a) for any act or failure to act, or any proceeding initiated or taken, in good faith under this Act, or in carrying out their duties or obligations as an officer, employee or member under this Act; or
- (b) for any decision or order made or enforced in good faith under this Act. *1993,c.32,s.4.*

### *Compellability*

#### **52. Confidentiality of medical audit committee, etc. reports**

The following persons:

- (a) a member of a medical audit committee, quality assurance committee or similar body of a hospital, the Society or the College; or
- (b) an administrator, the chief of service or any employee of a hospital

are not compellable

- (c) to produce working papers or draft reports of that committee; or
- (d) to disclose any communication made to or by him in connection with a medical audit or quality assurance investigation,

in any action for negligence, malpractice or breach of contract commenced against a member or associate member of the College in respect of professional services rendered by the member or associate member. *1987,c.47,s.52.*



### *Evidence*

#### **53. Certificate of licensure or registration**

- (1) A certificate purporting to be signed by the Registrar stating that any person named therein was or was not, on a specified day or during a specified period, registered and licensed, constitutes *prima facie* evidence in any court of the fact without proof that the person signing it is the Registrar or of his signature.

#### ***Idem, professional corporation***

- (2) A certificate purporting to be signed by the Registrar stating that a corporation named therein was or was not, on a specified day or during a specified period, registered and licensed as a professional corporation, constitutes *prima facie* evidence in any court of that fact, without proof that the person signing it is the Registrar or of his signature. *1987, c.47, s.53.*

### *Notices*

#### **54. Manner of service**

- (1) Service of any notice, order or other document under this Act, the regulations or bylaws may be made
- (a) upon a member or associate member by registered letter addressed to that person at his address set forth in the register; and
  - (b) upon any other person by registered mail.

#### **Proof of service by mail**

- (2) If service is made by registered mail, service shall be deemed to be made on the third day after the notice, order or other document is mailed, and proof that the notice, order or other document was addressed and posted in accordance with subsection (1) is proof of service.

#### **Service on Registrar**

- (3) Service of any document on the College may be made by service on the Registrar. *1987, c.47, s.54.*

### *Offences*

#### **55. Violation of condition**

- (1) A person licensed under this Act who practises medicine in violation of any condition or limitation contained in his license commits an offence.

#### **Unlicensed practice**

- (2) A member or associate member of the College who practises medicine when his license is suspended commits an offence. *1987, c.47, s.55.*

#### **56. Unauthorized practice of medicine**

- (1) Except as provided in this Act, and the regulations, no person, other than a medical practitioner who holds a license or a professional corporation which holds a license, shall
- (a) publicly or privately, for hire, gain or hope of reward, practise or offer to practise medicine;

- (b) hold himself or itself out in any way to be entitled to practise medicine; or
- (c) assume any title or description implying or designed to lead the public to believe that he or it is entitled to practise medicine.

**Receipt of remuneration when unregistered, etc.**

- (2) No person is entitled to receive a fee, reward or remuneration for professional services rendered or medicine or medical supplies supplied to any person in the practice of medicine unless registered and licensed at the time the services were provided, or medicine or supplies were rendered. *1987,c.47,s.56.*

**57. Furnishing false information**

A person who knowingly furnishes false information in any application under this Act, or in any statement or return required to be furnished under this Act, the regulations or bylaws, commits an offence. *1987,c.47,s.57.*

**58. Unlicensed corporate practice**

No person shall trade or carry on business within the province under any name or title containing the words “Professional Corporation” or the abbreviation “P.C.” unless that person or those persons are duly incorporated as a corporation and the corporation holds a license. *1987,c.47,s.58.*

**59. Unlawful transfer of shares in professional corporation**

No shareholder of a professional corporation shall enter into a voting trust agreement, proxy or any other type of agreement vesting in a person who is not a member, the authority to exercise the voting rights attached to any or all of his shares, and every shareholder who does so commits an offence. *1987,c.47,s.59.*

**60. Unlawful practise by student or intern**

A person who is engaged in a program of pre-registration physician training or a post-graduate physician training in the province and who is not registered in the Medical Education Register, commits an offence. *1987,c.47,s.60.*

**61. Prosecution, limitation period**

No prosecution for an offence under this Act or the regulations shall be commenced after two years from the date when the offence is alleged to have been committed. *1987,c.47,s.61.*

**62. Penalties**

A person who violates an order made under section 32.8, sections 55 to 60 or any provision of a regulation the contravention of which constitutes an offence is liable on summary conviction to a fine not exceeding \$5,000, or to imprisonment for a term not exceeding six months, or both. *1987,c.47,s.62; 1997,c.30,s.16 {eff.} Sept. 8/98.*



### *Exemptions*

#### **63. Exemptions**

Nothing in this Act applies to or prevents

- (a) a physician or surgeon entitled to practise medicine in any other province or country from consulting in Prince Edward Island with a medical practitioner who holds a license;
- (b) the domestic administration of family remedies;
- (c) the furnishing of first aid or emergency assistance in the case of an emergency, if such aid or assistance is given without hire, gain or hope of reward;
- (d) the manufacture, fitting or selling of artificial limbs, or similar appliances;
- (e) the practice of any profession supplementary or complementary to medicine by a qualified practitioner licensed or registered under any Act governing that profession.  
*1987, c.47, s.63.*

#### **64. Visiting forces**

- (1) The Council may permit a member of a visiting force as defined in the *Visiting Forces Act* R.S.C. 1970, Chap. V-6, who is authorized to practise medicine with such force, to practise medicine in the course of his employment with that force.

##### **Duration of authority to practise**

- (2) A person who receives permission to practise medicine under subsection (1) is authorized to practise medicine among members of the force of which he is a member for such period as may be designated by the Council.

##### **Fee**

- (3) No fee shall be charged by the Council for the granting of permission under subsection (1).  
*1987, c.47, s.64.*

### *Injunction*

#### **65. Injunction**

Where a member or associate member or any other person does or attempts to do anything contrary to the provisions of this Act or any regulation passed under the authority of this Act, the doing of such thing may be restrained by an injunction at the instance of the Council.  
*1987, c.47, s.65.*

### *Bylaws*

#### **66. Bylaws**

- (1) The Council may make bylaws relating to internal management or for any purpose authorized by this Act and, in particular,
  - (a) providing for the management of the College, including the keeping of the registers;
  - (b) respecting the election of members to the Council and in particular,
    - (i) prescribing eligibility requirements for nomination and voting,

- (ii) limiting the number of consecutive terms a member may serve,
- (iii) prescribing forms, procedures and electoral districts,
- (iv) setting out a mechanism for the determination of disputed elections,
- (v) prescribing the procedure for filling vacancies on the Council;
- (c) providing for the holding of meetings of the College or Council and the conduct of meetings;
- (d) fixing the time and place for regular meetings of the Council, determining by whom meetings may be called, regulating the conduct of meetings, providing for emergency meetings, and regulating the notice required in respect of meetings;
- (e) providing for the appointment of such committees as the Council may consider expedient;
- (f) respecting the composition, powers and duties of such committees as may be appointed by the Council, and providing for the holding and conduct of meetings of committees;
- (g) respecting the functions of the Registrar, and the officers and employees of the College;
- (h) prescribing the fees and allowances of members of the Council, committees, and Boards of Inquiry, and providing for the payment of necessary expenses of the Council, committees and Boards;
- (i) prescribing the seal of the College;
- (j) providing for the execution of documents by the College.

**Procedure**

- (2) Bylaws made by the Council under subsection (1) shall cease to have effect if disapproved by a resolution passed by a majority of the members of the College. *1987, c.47, s.66.*

***Ministerial Powers***

**66.1 Appointment of person to inquire and make recommendations**

- (1) Where the Minister determines that it is in the public interest to do so, the Minister may appoint a person to inquire into and make recommendations about any aspect of the administration or operation of the College.

**Scope of inquiry**

- (2) An inquiry under clause (1) may include an inquiry into an exercise of a power or a performance of a duty, or the failure to exercise a power or perform a duty, under this Act, the regulations or the bylaws.

**Powers of appointee**

- (3) A person appointed under subsection (1) has the powers and protections of a commissioner under the *Public Inquiries Act* R.S.P.E.I. 1988, Cap. P-31, when conducting an inquiry under this Act.

**Terms of reference**

- (4) A person appointed under subsection (1) shall comply with any terms of reference the Minister may establish concerning the conduct of an inquiry, and shall report his or her findings to the Minister at the times and in the manner required by the Minister.



**Expenses related to inquiry**

- (5) The expenses incurred by the Government under this section in respect of the College are a debt due by the College to the Government and are recoverable in a court of competent jurisdiction. *2015, c.35, s.3.*

**66.2 Ministerial directive**

- (1) Upon completion of an inquiry under section 66.1, the Minister may, if in the Minister's opinion it is in the public interest to do so, issue a directive to the College respecting the results of the inquiry, including but not limited to directives respecting matters related to health, safety or adherence to standards in the practice of medicine.

**Scope of directive**

- (2) A directive under subsection (1) may
- (a) require the College to exercise its powers or perform its duties under this Act, the regulations or the bylaws to address the issues that were the subject of the inquiry, including the making, amending or revoking of regulations or bylaws;
  - (b) provide for the procedure to be followed by the College in developing, proposing, consulting on and reviewing a regulation or bylaw; and
  - (c) include a requirement that the College submit a written report to the Minister, within the specified time, detailing the measures the College has taken to implement that directive.

**Restriction on directive**

- (3) Notwithstanding clause (2)(a), a directive shall not require the College to
- (a) adopt a standard, limit or condition on the practice of medicine; or
  - (b) do anything with respect to the registration or discipline of a specific member.

**Compliance required**

- (4) The College shall comply with a directive issued to it under this section. *2015, c.35, s.3.*

***Regulations*****67. Regulations**

- (1) The Council may make regulations relating to matters associated with the regulation of entitlement to practise, licensing, standards of practice and discipline or for any purpose authorized by this Act and, in particular,
- (a) respecting the recognition of medical schools and examinations as prerequisites to registration and licensing;
  - (b) respecting the registration and licensing of members and associate members;
  - (c) respecting the educational qualifications of applicants for registration as members and associate members;
  - (d) respecting the participation of members in programs of continuing education;
  - (e) respecting the disciplining of members and associate members and the revocation or suspension of licenses issued under this Part;
  - (f) respecting the reporting and publication of decisions in disciplinary matters;
  - (g) defining professional misconduct for the purposes of this Act;

- (h) regulating, controlling, and prohibiting the use of terms, titles, and designations by members and associate members, or groups or associations of members and associate members, in respect of their practice;
- (i) prescribing the records and accounts to be kept by members and associate members with respect to their practice, and providing for the production, inspection, and examination of such records and accounts;
- (j) subject to any provisions of the *Narcotic Control Act* (Canada) R.S.C. 1985, Chap. N-1, the *Food and Drugs Act* (Canada) and the *Pharmacy Act* R.S.P.E.I. 1988, Cap. P-6.1 regulating the compounding, dispensing and sale of drugs by members and associate members;
- (k) incorporating any of the provisions of the *Canada Medical Act* that are not contrary to the provisions of this Act;
- (l) prescribing examinations to be written by applicants for registration;
- (m) prescribing procedures by which the license of a member or associate member be suspended without notice or investigation upon contravention of any regulation or bylaw that requires the member or associate member to pay a fee, file a document, or do any other act by a specified or ascertainable date, and providing for the reinstatement of a license so suspended;
- (n) respecting advertising by members or associate members;
- (o) respecting retraining of physicians who have been out of practice or who are changing their type of practice;
- (p) respecting residential qualifications of applicants;
- (q) prescribing fees for licensing, registration or the issue of any document including penalties for late payment;
- (r) providing that the contravention of certain provisions of the regulations constitutes an offence.

**Approval by Lieutenant Governor in Council**

- (2) A regulation made under subsection (1) is of no force or effect unless it has been approved by the Lieutenant Governor in Council. *1987,c.47,s.67; 2014,c.39,s.63; 2015,c.35,s.4.*



## SCHEDULE

The objects for which the corporation is established are

- (a) to engage in any phase and aspect of rendering the same medical services to the public that a member of the College of Physicians and Surgeons of Prince Edward Island is authorized to render;
- (b) to purchase, or otherwise acquire and to own, mortgage, pledge, sell, assign, transfer or otherwise dispose of, and to invest in, deal in or with, real or personal property necessary for the rendering of medical services;
- (c) to contract debts and borrow money, issue and sell or pledge bonds, debentures, notes and other evidences of indebtedness and execute such mortgages, transfers of corporate property and other instruments to secure the payment of corporate indebtedness as required;
- (d) to enter into partnership, consolidate or merge with or purchase the assets of another corporation or individual rendering the same professional services