

Chapter 16

MEDICAL PROFESSION ACT

(Assented to November 10, 2020)

The Commissioner, by and with the advice and consent of the Legislative Assembly, enacts as follows:

INTERPRETATION

Definitions

1. (1) In this Act,

"Board of Inquiry" means a Board of Inquiry appointed under subsection 28(1); (*comité d'enquête*)

"Fitness to Practice Committee" means the Fitness to Practice Committee referred to in subsection 34(1); (*comité sur l'aptitude professionnelle*)

"improper conduct" means conduct described in section 20; (*inconduite*)

"medical practitioner" means a person who is entitled to practice medicine under this Act, other than a registered student; (*médecin*)

"Medical Registration Committee" means the Medical Registration Committee continued under subsection 2(1); (*comité d'inscription des médecins*)

"practice medicine", subject to subsection (2), means to offer or undertake by any means or method, including remotely, to diagnose, treat, operate or prescribe for any human disease, pain, injury, disability or physical condition or to hold oneself out as being able to do so; (*exercer la médecine*)

"register" means one of the registers maintained under section 3; (*registre*)

"registered student" means a person registered in the Education Register who is not also registered in the General or Specialist Registers; (*étudiant inscrit*)

"Registrar" means the Registrar of Health Professions appointed under the *Dental Profession Act*; (*registraire*)

"registration" means a person's registration in a register; (*inscription*)

"research permit" means a research permit issued under section 9; (*permis de recherche*)

"Review Officer" means the Review Officer or a Special Review Officer appointed under section 21; (*agent d'examen*)

"state of emergency" means a state of emergency declared under

- (a) section 40 of the *Public Health Act*;
- (b) section 11 or 16 of the *Emergency Measures Act*; or
- (c) section 6 of the *Emergencies Act* (Canada). (*état d'urgence*)

Practice of medicine

(2) In this Act, the practice of medicine includes the practice of surgery and obstetrics, but does not include the practice of

- (a) homeopathy;
- (b) osteopathy;
- (c) veterinary surgery;
- (d) veterinary medicine; or
- (e) an activity prescribed by regulation.

MEDICAL REGISTRATION COMMITTEE

Medical Registration Committee

2. (1) The Medical Registration Committee is continued.

Members

(2) The Medical Registration Committee is composed of

- (a) one medical practitioner who is resident in Nunavut;
- (b) two persons who are qualified to practice medicine in Nunavut, a province or another territory;
- (c) one employee of the Government of Nunavut;
- (d) the Registrar; and
- (e) one other person who is
 - (i) a resident of Nunavut,
 - (ii) not qualified to practice medicine in Nunavut, a province or another territory, and
 - (iii) not an employee of the Government of Nunavut.

Appointment

(3) The members of the Medical Registration Committee, other than the Registrar, are appointed by the Minister for a term of

- (a) three years, in the case of two of the three persons appointed under paragraphs (2)(a) and (b); and
- (b) two years, in all other cases.

Chairperson

(4) The Medical Registration Committee shall designate one of its members other than the Registrar as chairperson.

Secretary

(5) The Registrar is the Secretary of the Medical Registration Committee.

Quorum

- (6) Three members of the Medical Registration Committee constitute a quorum.

REGISTERS

Registers

3. (1) The Registrar shall maintain four registers:
- (a) the General Register, for general and family practitioners;
 - (b) the Specialist Register, for specialists in any branch of medicine;
 - (c) the Education Register, for students, interns and residents;
 - (d) the Emergency Register, for temporary registrations during states of emergency.

Public Access

- (2) The Registrar shall permit any person who provides reasonable notice to inspect the registers referred to in subsection (1).

Publication

- (3) The Registrar may publish the contents of the registers, including by electronic means.

Registration – General, Specialist and Education Registers

Application for registration – General and Specialist Registers

4. (1) A person may apply for registration in the General or Specialist Register, or both, by submitting an application to the Registrar that includes
- (a) the information and documents prescribed by regulation;
 - (b) consent for the Registrar to obtain information and documents prescribed by regulation from a regulatory body in another jurisdiction or from another person; and
 - (c) the application fee prescribed by regulation.

Indefinite or temporary registration

- (2) A person applying for registration in the General or Specialist Register, or both, may request an indefinite or a temporary registration.

Fee exemption

- (3) A person who is registered in either the General or Specialist Register and applies to be registered in the other is exempted from paying the application fee under paragraph (1)(c).

Application for registration – Education Register

- (4) A person who is undertaking training experience of a limited duration in Nunavut may apply for registration in the Education Register by submitting an application to the Registrar that includes
- (a) the information and documents prescribed by regulation;

- (b) consent for the Registrar to obtain information and documents prescribed by regulation from a regulatory body in another jurisdiction or from another person;
- (c) the category of registration they are applying for; and
- (d) the application fee prescribed by regulation.

Direct registration

(5) Unless the Registrar is required to forward an application to the Medical Registration Committee under subsection (6), the Registrar shall register the applicant under this section in the relevant register, indicating

- (a) whether the registration is indefinite or temporary;
- (b) in the case of a temporary registration, its dates of validity; and
- (c) in the case of the Education Register, the category of registration.

Forwarding application

(6) The Registrar shall forward an application to the Medical Registration Committee if the information or documents referred to in subsections (1) or (4) indicate

- (a) the applicant does not have the qualifications prescribed by regulation;
- (b) pending disciplinary proceedings against the applicant in any jurisdiction;
- (c) disciplinary proceedings against the applicant in any jurisdiction that resulted in a finding of improper conduct;
- (d) restrictions on the applicant's entitlement to practice medicine in a jurisdiction where they are licenced or registered;
- (e) pending criminal charges against the applicant in any jurisdiction;
- (f) criminal convictions against the applicant in any jurisdiction;
- (g) pending or past civil proceedings against the applicant with respect to their practice of medicine in any jurisdiction; or
- (h) another matter that, in the opinion of the Registrar, merits a review by the Medical Registration Committee.

Review by Medical Registration Committee

(7) Subject to subsections (8) and (9), the Medical Registration Committee shall approve the registration of an applicant and forward the approval to the Registrar if it determines that

- (a) the applicant has the qualifications prescribed by regulation; and
- (b) taking into account all the circumstances, there is no reason to disqualify the applicant from being registered in the relevant register.

Restrictions – mandatory

(8) An approval under subsection (7) must be subject to the same restrictions on the applicant's entitlement to practice medicine as they have in any other jurisdiction in which they are licenced or registered, unless the Medical Registration Committee determines that the restriction is of such a nature that it would be inapplicable in Nunavut.

Restrictions – discretionary

(9) The Medical Registration Committee may make an approval under subsection (7) subject to any restrictions that, taking into account all the circumstances, it determines are necessary to protect the public interest.

Notification to applicant

(10) The Medical Registration Committee shall notify the applicant and provide them with a reasonable opportunity to provide further information or documents if

- (a) the Medical Registration Committee intends to not approve the registration of an applicant; or
- (b) the Medical Registration Committee intends to subject the approval to register an applicant to restrictions under subsection (9).

Consideration

(11) The Medical Registration Committee shall consider any further information and documents provided by an applicant following a notice under subsection (10) prior to making its decision.

Registration by Registrar

(12) Following receipt of an approval made under subsection (7), the Registrar shall

- (a) register the applicant in the relevant register;
- (b) indicate whether the registration is indefinite or temporary;
- (c) in the case of a temporary registration, indicate its dates of validity;
- (d) in the case of the Education Register, indicate the category of registration; and
- (e) if applicable, indicate on the registration all the restrictions on the applicant's entitlement to practice medicine that were included with the approval.

Notification

(13) The Registrar shall notify the applicant of

- (a) their registration in a register, and any restrictions that their registration is subject to; or
- (b) the decision of the Medical Registration Committee to not approve their registration.

Registration fraud

Registration fraud – General, Specialist and Education Registers

5. (1) If the Registrar has reason to believe that a medical practitioner or registered student produced fraudulent information or documents or failed to produce required information or documents under section 4, the Registrar shall inform

- (a) the Medical Registration Committee; and
- (b) the Review Officer.

Re-evaluation by Medical Registration Committee

(2) After being informed under subsection (1), the Medical Registration Committee may re-evaluate the application of the medical practitioner or registered student, in the same manner as the original application under section 4, taking into account any information and documents that should have been provided by the applicant in their initial application.

Decision by Medical Registration Committee

(3) Following a re-evaluation under subsection (2), the Medical Registration Committee may

- (a) confirm the registration;
- (b) subject the registration to the restrictions that it would have been subject to had the Medical Registration Committee been aware of the information and documents that should have been provided by the applicant in their initial application, but were not; or
- (c) cancel the registration, if the Medical Registration Committee is of the opinion that it would not have approved the original registration had it been aware of the information and documents that should have been provided by the applicant in their initial application, but were not.

Forwarding to Registrar

(4) The Medical Registration Committee shall forward its decision under subsection (3) to the Registrar.

Action by Registrar

(5) The Registrar shall,

- (a) following a decision under paragraph (3)(a), notify the medical practitioner or registered student of the decision;
- (b) following a decision under paragraph (3)(b),
 - (i) indicate on the registration all the new restrictions on the applicant's entitlement to practice medicine, and
 - (ii) notify the medical practitioner or registered student of the restrictions; or
- (c) following a decision under paragraph (3)(c),
 - (i) remove the registration from the relevant register, and
 - (ii) notify the medical practitioner or registered student of the cancellation.

Annual registration

Annual registration – indefinite registration

6. (1) A person who is registered indefinitely in a register shall, on or before March 31 of each year, provide to the Registrar

- (a) the information and documents prescribed by regulation;

- (b) consent for the Registrar to obtain information and documents prescribed by regulation from a regulatory body in another jurisdiction or from another person; and
- (c) the annual registration fee prescribed by regulation.

Annual registration – temporary registration

(2) A person who is registered temporarily in a register for more than one year shall, on each anniversary of the registration, provide to the Registrar

- (a) the information and documents prescribed by regulation;
- (b) consent for the Registrar to obtain information and documents prescribed by regulation from a regulatory body in another jurisdiction or from another person; and
- (c) the annual registration fee prescribed by regulation.

Notification

(3) If a person registered in the General, Specialist or Education Register fails to comply with subsection (1) or (2) the Registrar shall notify the person of

- (a) the failure; and
- (b) the requirement to suspend the person's registration if they do not comply within two months after the deadline indicated in the relevant subsection.

Suspension

(4) If a person registered in the General, Specialist or Education Register fails to comply with the requirements of subsection (1) or (2) within two months after the deadline indicated in the relevant subsection, the Registrar shall

- (a) suspend the registration of person; and
- (b) notify the person of
 - (i) the suspension, and
 - (ii) the steps required to terminate the suspension.

Terminating suspension

(5) Subject to subsection (6), if, following a suspension under subsection (4), a person complies with the requirements of subsection (1) or (2) and pays the additional fee prescribed by regulation, the Registrar shall terminate the suspension of the person's registration.

Re-application

(6) If a person's registration has been suspended under subsection (4) and they fail to comply with the requirements of subsection (1) or (2) or pay the additional fee prescribed by regulation within six months after the deadline indicated in the relevant subsection, the Registrar may

- (a) cancel the person's registration and remove it from the relevant register or registers; and
- (b) require the person to re-apply for registration in accordance with section 4.

Notification

(7) Following a cancellation under subsection (6), the Registrar shall notify the medical practitioner or registered student of the cancellation.

Disciplinary matters

7. The Registrar shall inform the Review Officer if any of the information or documents submitted under section 6 indicate improper conduct.

Non-practicing person

8. (1) If a medical practitioner or registered student who is required to submit an annual registration under section 6 has not, or appears to not have, practiced medicine in Nunavut or in another jurisdiction in accordance with the clinical currency requirements prescribed by regulation, the Registrar shall inform the Medical Registration Committee.

Cancellation

(2) The Medical Registration Committee shall cancel the registration of a medical practitioner or registered student and inform the Registrar of the cancellation if

- (a) they have not practiced medicine in Nunavut or in another jurisdiction in accordance with the clinical currency requirements prescribed by regulation; and
- (b) the Medical Registration Committee is of the opinion that they no longer have the qualifications prescribed by regulation.

Notification

(3) The Medical Registration Committee shall notify the medical practitioner or registered student and provide them with a reasonable opportunity to provide further information or documents if the Medical Registration Committee intends to cancel their registration under subsection (2).

Consideration

(4) The Medical Registration Committee shall consider any further information and documents provided by a medical practitioner or registered student following a notice under subsection (3) prior to making its decision.

Notification

(5) Following a cancellation under subsection (2), the Registrar shall

- (a) remove the registration from the relevant register; and
- (b) notify the medical practitioner or registered student of the cancellation.

Research permit

Application for research permit

9. (1) A medical practitioner may apply for a research permit to conduct clinical research by submitting an application to the Registrar that includes

- (a) a description of the nature of the clinical research to be conducted;
- (b) the place or places in which the clinical research will be conducted;

- (c) the dates during which the clinical research will be conducted;
- (d) the information and documents prescribed by regulation;
- (e) consent for the Registrar to obtain information and documents prescribed by regulation from a regulatory body in another jurisdiction or from another person; and
- (f) the application fee prescribed by regulation.

Medical Registration Committee

(2) The Registrar shall forward applications under subsection (1) to the Medical Registration Committee.

Issuance of permit

(3) Following an application under subsection (1), the Medical Registration Committee may approve a research permit and forward the approval to the Registrar if it determines that

- (a) the research will be conducted in accordance with applicable laws and ethical standards; and
- (b) taking into account all the circumstances, there is no reason to deny the application.

Restrictions

(4) The Medical Registration Committee may make an approval under subsection (3) subject to any restrictions that, taking into account all the circumstances, it determines are necessary to protect the public interest.

Notification to applicant

(5) The Medical Registration Committee shall notify the applicant and provide them with a reasonable opportunity to provide further information or documents if

- (a) the Medical Registration Committee intends to not approve the research permit; or
- (b) the Medical Registration Committee intends to subject the approval to restrictions under subsection (4).

Consideration

(6) The Medical Registration Committee shall consider any further information and documents provided by an applicant following a notice under subsection (5) prior to making its decision.

Issuance of permit by Registrar

(7) Following receipt of an approval made under subsection (3), the Registrar shall

- (a) issue a research permit to the applicant;
- (b) indicate the following terms on the research permit:
 - (i) its dates of validity,
 - (ii) the place or places where clinical research may be conducted under it,

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- (iii) the nature of the clinical research that may be conducted under it; and
- (c) if applicable, indicate on the research permit all the restrictions that were included with the approval.

Notification

- (8) The Registrar shall notify the applicant of
- (a) the issuance of a research permit; or
 - (b) the decision of the Medical Registration Committee to not approve their research permit.

Validity

(9) A research permit ceases to be valid if the registration of the medical practitioner to whom it was issued under this Act is suspended, cancelled or otherwise terminated.

Scientists Act

(10) For greater certainty, the requirement to hold a research permit under this Act is in addition to any requirements under the *Scientists Act*.

Appeal to Nunavut Court of Justice

Appeals

10. (1) A person subject to a decision of the Medical Registration Committee may appeal the decision to the Nunavut Court of Justice.

Procedure

- (2) Despite subsection 84(2) and section 89 of the *Judicature Act*, an appeal under this section
- (a) may not include a motion for a new trial in the Nunavut Court of Justice;
 - (b) does not require an appeal book;
 - (c) is based on the record of the Medical Registration Committee provided under subsection (3); and
 - (d) is determined on the basis of reasonableness, except for questions of jurisdiction which are determined on the basis of correctness.

Record

(3) When a decision of the Medical Registration Committee is appealed to the Nunavut Court of Justice, the chairperson of the Medical Registration Committee shall provide the record of the Medical Registration Committee respecting the decision to the Clerk of the Nunavut Court of Justice, including all materials that would be submitted for a judicial review in accordance with the Rules of the Nunavut Court of Justice.

Decision on appeal

- (4) On an appeal under this section, the Nunavut Court of Justice may
- (a) make any finding that, in its opinion, should have been made;

- (b) quash, confirm or vary the decision or any part of it; or
- (c) refer the matter back to the Medical Registration Committee for further consideration in accordance with any direction of the Court.

Registration

(5) The Registrar shall, in accordance with a decision of the Nunavut Court of Justice under this section,

- (a) register a person in a register, amend their registration, or remove a registration from a register; or
- (b) issue, amend or cancel a research permit.

Entitlement to practice – General and Specialist Registers

General Register

11. (1) A person who is registered in the General Register is entitled to practice medicine.

Specialist Register

(2) A person who is registered in the Specialist Register but not the General Register is entitled to practice medicine only in the branch of medicine for which that person has been certified as a specialist.

Restrictions

(3) The entitlement to practice medicine under this section is subject to any restrictions that are imposed on the registration.

Removal from General and Specialist Registers

12. The Registrar shall remove a temporary registration from the General or Specialist Register at the termination of the registration.

Entitlement to practice – Education Register

Entitlement to practice

13. (1) A person who is registered in the Education Register is entitled to practice medicine as specified in the regulations for their category of registration.

Restrictions

(2) The entitlement to practice medicine under this section is subject to any restrictions that are imposed on the registration.

Removal from Education Register

14. The Registrar shall remove a registration from the Education Register at the termination of the registration.

Emergency Register

Application for registration – Emergency Register

- 15.** (1) During a state of emergency, a person may apply for registration in the Emergency Register, by submitting an application to the Registrar that includes
- (a) the information and documents prescribed by regulation; and
 - (b) consent for the registrar to obtain information and documents prescribed by regulation from a regulatory body in another jurisdiction or from another person.

Registration by Registrar

(2) The Registrar shall, as soon as practicable, register an applicant under this section in the Emergency Register unless the information and documents referred to in subsection (1) indicate that

- (a) the applicant does not have the qualifications prescribed by regulation;
- (b) pending disciplinary proceedings against the applicant in any jurisdiction;
- (c) disciplinary proceedings against the applicant in any jurisdiction that resulted in a finding of improper conduct;
- (d) restrictions on the applicant's entitlement to practice medicine in a jurisdiction where they are licenced or registered;
- (e) pending criminal charges against the applicant in any jurisdiction;
- (f) criminal convictions against the applicant in any jurisdiction;
- (g) pending or past civil proceedings against the applicant with respect to their practice of medicine in any jurisdiction; or
- (h) another matter that, in the opinion of the Registrar, merits a review by the Medical Registration Committee.

Validity

- (3) A registration under section (2) is valid, at the discretion of the Registrar, until
- (a) the termination of the state of emergency; or
 - (b) an earlier date specified on the registration.

Extending validity

(4) The Registrar may, at the request of a person registered in the Emergency Register, extend the validity of their registration, but not beyond the end of the state of emergency.

Specialist

(5) If a person applying under this section only has the qualifications necessary to practice medicine in the branch of medicine for which that person has been certified as a specialist, the Registrar shall indicate on the registration that the person is restricted to practicing only in that branch of medicine.

Notification

- (6) The Registrar shall notify the applicant of,
- (a) in case their registration is approved by the Registrar,
 - (i) their registration in the Emergency Register,

- (ii) the geographic limits of their entitlement to practice medicine,
 - (iii) the length of time the registration is valid, and
 - (iv) if applicable, that the person is restricted to practicing only in a specified branch of medicine;
- (b) in case their registration is not approved by the Registrar,
- (i) the decision of the Registrar to not approve their registration, and
 - (ii) their right to apply for registration in the General or Specialist Registers under section 4;
- (c) in case their request for an extension is granted by the Registrar, the length of time their registration is valid; or
- (d) in case their request for an extension is not granted by the Registrar,
- (i) the decision of the Registrar to not grant the extension, and
 - (ii) their right to apply for registration in the General or Specialist Registers under section 4.

No appeal or review

(7) A decision of the Registrar under this section is not subject to appeal or review by any court, except for questions of jurisdiction.

Entitlement to practice medicine under Emergency Register

- 16.** (1) A person registered in the Emergency Register is entitled to practice medicine only
- (a) in an area of Nunavut where a state of emergency is in effect; and
 - (b) in accordance with any restriction under subsection 15(5).

Removal from Emergency Register

(2) The Registrar shall remove all registrations from the Emergency Register at the termination of the state of emergency.

Registration fraud – Emergency Register

- 17.** (1) If the Registrar has reason to believe that a person registered in the Emergency Register produced fraudulent information or documents or failed to produce required information or documents under section 15, the Registrar
- (a) may cancel and remove the registration from the Emergency Register; and
 - (b) shall inform the Review Officer.

Notification

(2) When the Registrar cancels a registration under this section, the Registrar shall notify the person of

- (a) the cancellation; and
- (b) their right to apply for registration in the General or Specialist Registers under section 4.

No appeal or review

(3) A decision of the Registrar under this section is not subject to appeal or review by any court, except for questions of jurisdiction.

Issuance of licence

Issuance of licence

- 18.** (1) The Registrar shall issue to each person registered in a register a licence indicating
- (a) the register in which they are registered;
 - (b) whether the registration is indefinite or temporary;
 - (c) in the case of a temporary registration, its dates of validity; and
 - (d) in the case of the Education Register, the category of registration.

Return of licence

- (2) A person shall return a licence to the Registrar if
- (a) they are notified of the cancellation of their registration under this Act;
 - (b) their temporary registration expires;
 - (c) their registration is suspended under section 30 or 33; or
 - (d) they voluntarily relinquish their registration under this Act.

DISCIPLINE AND FITNESS TO PRACTICE

Action by other regulatory body

Reporting

- 19.** (1) If, under the laws of a province or other territory, a body or person regulating persons entitled to practice medicine in a province or other territory cancels, suspends or restricts the entitlement of a person registered under this Act to practice medicine in that province or other territory, the person registered under this Act shall immediately report the cancellation, suspension or restriction to the Registrar.

Effect in Nunavut – cancellation

- (2) The Registrar shall cancel the registration of a person whose entitlement to practice medicine in a province or other territory was cancelled in that province or other territory due to disciplinary action.

Effect in Nunavut – suspension

- (3) The Registrar shall suspend the registration of a person while the person's entitlement to practice medicine in a province or other territory is suspended in that province or other territory due to
- (a) disciplinary action; or
 - (b) action related to the person
 - (i) being incapable of practicing medicine, or
 - (ii) being unfit to practice medicine.

Effect in Nunavut – restriction

- (4) The Registrar shall restrict the registration of a person while and to the same extent that the person's entitlement to practice medicine in a province or other territory is restricted in that province or other territory due to
- (a) disciplinary action; or

- (b) action related to the person
 - (i) being incapable of practicing medicine, or
 - (ii) being unfit to practice medicine.

Terminology

(5) A reference in this section to the cancellation, suspension or restriction of a person's entitlement to practice medicine in a province or other territory includes reference to any terms of similar import used in the province or other territory.

Improper conduct

Improper conduct

20. For the purposes of this Act, improper conduct means

- (a) engaging in unbecoming or criminal conduct, whether in a professional capacity or otherwise;
- (b) practicing medicine while
 - (i) being incapable of practicing medicine, or
 - (ii) being unfit to practice medicine;
- (c) practicing medicine while suspended or in contravention of a restriction on one's registration under this Act;
- (d) conviction for an offence under this Act or of an indictable offence under the *Criminal Code*;
- (e) engaging in conduct that
 - (i) is contrary to the best interest of the public or the medical profession,
 - (ii) displays a significant lack of knowledge, skill or judgment in the practice of medicine, or
 - (iii) does not comply with accepted standards for the practice of medicine;
- (f) using fraud, misrepresentation or false records for any purpose under this Act;
- (g) failure to self-report under subsection 19(1) or 22(1);
- (h) failure to comply with subsection 25(3);
- (i) failure to give evidence or produce a document or thing to a Board of Inquiry when compelled to do so by the Board of Inquiry;
- (j) failure to comply with a settlement agreement approved under subsection 27(5);
- (k) failure to comply with a requirement under paragraph 34(6)(f) while under the jurisdiction of the Fitness to Practice Committee; or
- (l) engaging in conduct that is prescribed by regulation as improper conduct.

Review Officer

Appointment of Review Officer

21. (1) The Minister shall appoint a medical practitioner registered under this Act as Review Officer.

Appointment of Special Review Officer

(2) If, with respect to a complaint under section 23 or information under subsection 24(3), the Review Officer is unable to act due to a conflict of interest or other reason, the Minister shall appoint a person entitled to practice medicine in Nunavut, a province or another territory as a Special Review Officer for the complaint or information.

Power of Special Review Officer

(3) A Special Review Officer appointed under subsection (2) has, with respect to the complaint or information for which they are appointed, the powers and duties of the Review Officer under this Act.

Informing Registrar

(4) The Review Officer shall inform the Registrar of the following:

- (a) the receipt of a complaint under section 23;
- (b) the appointment of an investigator under this Act;
- (c) an interim suspension or restriction under section 33;
- (d) the dismissal of a complaint or information under this Act;
- (e) the referral of a matter to the Fitness to Practice Committee under this Act;
- (f) the Fitness to Practice Committee referring a matter back to the Review Officer under section 34.

Self-reporting

22. (1) A medical practitioner or registered student shall report to the Review Officer if they are

- (a) incapable of practicing medicine; or
- (b) unfit to practice medicine.

Referral to Fitness to Practice Committee

(2) Following a report under subsection (1), the Review Officer shall refer the matter to the Fitness to Practice Committee.

Complaints

23. (1) A person may file a complaint against a medical practitioner or registered student

- (a) by writing to the Review Officer in any official language of Nunavut; or
- (b) in the case of an illiterate person, orally in any official language of Nunavut with a person designated by the Review Officer.

Recording

(2) In the case of a complaint filed orally under paragraph (1)(b), the person designated by the Review Officer shall

- (a) record the complaint in a manner approved by the Review Officer;
- (b) if the complaint is recorded as a sound recording,
 - (i) play back the recording to the complainant, and

- (ii) allow the complainant to have their words re-recorded until the complainant is satisfied that the recording accurately captures their words; and
- (c) if the complaint is recorded in writing,
 - (i) record the words of the complaint in the official language of Nunavut they were provided in,
 - (ii) read back the recorded words to the complainant, and
 - (iii) make any corrections to the written record that the person requests until the complainant is satisfied that the recording accurately captures their words.

Transmission of complaint

(3) A person recording a complaint under subsection (2) shall provide the recorded complaint to the Review Officer as soon as practicable after it is made.

Designation

(4) The Review Officer may designate persons for the purposes of receiving oral complaints under paragraph (1)(b) either individually or by class.

Initial processing of complaints

- 24.** (1) Following a complaint under section 23, the Review Officer shall
- (a) dismiss the complaint if, in the opinion of the Review Officer,
 - (i) the conduct described in the complaint does not amount to improper conduct, or
 - (ii) the complaint is frivolous or vexatious;
 - (b) refer the complaint to the Fitness to Practice Committee if, in the opinion of the Review Officer, the medical practitioner or registered student
 - (i) is incapable of practicing medicine, or
 - (ii) is unfit to practice medicine; or
 - (c) in any other case but subject to subsection (2), appoint an investigator under section 25.

Referral to alternative dispute resolution

(2) The Review Officer may, instead of appointing an investigator under paragraph (1)(c), appoint a facilitator in accordance with section 27 if

- (a) the Review Officer is of the opinion that it is appropriate to settle the complaint by way of alternative dispute resolution;
- (b) the complainant and the medical practitioner or registered student consent to alternative dispute resolution; and
- (c) the complainant and the medical practitioner or registered student agree on the alternative dispute resolution process to be used.

No complaint

(3) If the Review Officer has, based on information in the possession of the Review Officer, reasonable grounds to believe that the conduct of a medical practitioner or registered student constitutes improper conduct, the Review Officer may

- (a) refer the complaint to the Fitness to Practice Committee if, in the opinion of the Review Officer, the medical practitioner or registered student
 - (i) is incapable of practicing medicine, or
 - (ii) is unfit to practice medicine; or
- (b) in any other case, appoint an investigator under section 25.

Notice

(4) The Review Officer shall notify the complainant, if any, and the medical practitioner or registered student of a decision made under subsections (1) to (3) and, in the case of a dismissal, notify the complainant of their right to seek judicial review under subsection (5).

Judicial review of dismissal

(5) If the Review Officer dismisses a complaint under paragraph (1)(a), the complainant may apply for judicial review of the decision to dismiss in accordance with the Rules of the Nunavut Court of Justice.

Disciplinary process by other regulatory body

(6) Despite this Act, the Review Officer may refuse to process a complaint under this section or stop an investigation under section 25 if

- (a) a body or person regulating persons entitled to practice medicine in a province or other territory is undertaking disciplinary proceeding with respect to the subject-matter of the complaint or information; and
- (b) the Review Officer is satisfied that proceedings under this Act are not necessary to protect the public interest.

Investigation

Appointment of investigator

25. (1) The Review Officer may, for the purposes of paragraph 24(1)(c) or 24(3)(b), appoint as investigator to investigate the conduct of a medical practitioner or registered student

- (a) a person who is or has been entitled to practice medicine in Nunavut, a province or another territory; or
- (b) a person employed by a regulatory body that performs investigations into the conduct of persons entitled to practice medicine in a province or other territory.

Powers and term of investigator

(2) An investigator appointed under this section

- (a) shall investigate the complaint or information;
- (b) may hire any legal counsel and staff that they consider necessary for carrying out their duties; and
- (c) holds office until the complaint or information referred to them has been dealt with in its entirety.

Duty to answer

(3) A medical practitioner or registered student that is subject to an investigation shall, despite any law or rule respecting confidentiality,

- (a) provide a full answer to any questions posed by the investigator; and
- (b) provide to the investigator any documents in their possession that are requested by the investigator.

Duties of investigator following review

(4) An investigator, after reviewing the complaint or information, shall report in writing to the Review Officer and the report shall include a recommendation that the complaint or information be

- (a) dismissed;
- (b) referred to the Fitness to Practice Committee; or
- (c) referred to a Board of Inquiry.

Review of investigation report

26. (1) On receiving a report under subsection 25(4), the Review Officer shall review the report and

- (a) dismiss the complaint or information, if, in the opinion of the Review Officer, the conduct in question does not amount to improper conduct;
- (b) refer the complaint or information to the Fitness to Practice Committee if, in the opinion of the Review Officer, the conduct in question is a result of the medical practitioner or registered student
 - (i) being incapable of practicing medicine, or
 - (ii) being unfit to practice medicine; or
- (c) in any other case but subject to subsection (2), request the Minister to appoint a Board of Inquiry to inquire into the complaint or information, and refer the complaint or information to the Board of Inquiry.

Referral to alternative dispute resolution

(2) Subject to subsection 27(9), the Review Officer may, instead of requesting the appointment of a Board of Inquiry under paragraph (1)(c), appoint a facilitator in accordance with section 27 if

- (a) the Review Officer is of the opinion that it is appropriate to settle the complaint by way of alternative dispute resolution;
- (b) the complainant and the medical practitioner or registered student consent to alternative dispute resolution; and
- (c) the complainant and the medical practitioner or registered student agree on the alternative dispute resolution process to be used.

Notice

(3) The Review Officer shall notify the complainant, if any, and the medical practitioner or registered student of a decision made under subsection (1) or (2) and, in the case of a dismissal, notify the complainant of their right to seek judicial review under subsection (4).

Judicial review of dismissal

(4) If the Review Officer dismisses a complaint under paragraph (1)(a), the complainant may apply for judicial review of the decision to dismiss in accordance with the Rules of the Nunavut Court of Justice.

Alternative dispute resolution

Consultation before appointment

27. (1) The Review Officer shall consult with the complainant and the medical practitioner or registered student regarding the choice of facilitator under subsection 24(2) or 26(2).

No alternative dispute resolution in case of information

(2) For greater certainty, a Review Officer shall not appoint a facilitator under subsection 24(2) or 26(2) if there is no complainant.

Attempt to resolve

(3) The facilitator shall, in an impartial manner, assist the complainant and medical practitioner or registered student to resolve the complaint to their mutual satisfaction.

Settlement

(4) If a complaint is settled through the alternative dispute resolution process, the facilitator shall provide the Review Officer and the Registrar with a copy of the settlement agreement signed by the complainant and the medical practitioner or registered student.

Approval of settlement

- (5) The Review Officer may,
- (a) approve the settlement agreement;
 - (b) with the consent of the complainant and the medical practitioner or registered student, amend the terms of the settlement agreement and then approve it; or
 - (c) refuse to approve the settlement agreement if the Review Officer determines that it is necessary in the public interest to do so.

Effective date

(6) A settlement of a complaint does not come into effect unless the Review Officer approves the settlement agreement under subsection (5).

Unresolved complaint

(7) The facilitator shall terminate an alternative dispute resolution process and refer the complaint back to the Review Officer if

- (a) the complainant or the medical practitioner or registered student requests a termination of the process; or
- (b) the facilitator considers it unlikely that the complaint will be settled through the process.

Same

- (8) Following a referral under subsection (7), the Review Officer shall
- (a) provide the complainant and the medical practitioner or registered student with a notice of the termination;
 - (b) if the facilitator was appointed under subsection 24(2), appoint an investigator under paragraph 24(1)(c); and
 - (c) if the facilitator was appointed under subsection 26(2), request the appointment of a Board of Inquiry under paragraph 26(1)(c).

Single process

(9) If a facilitator is appointed for a complaint under subsection 24(2), a facilitator may not be appointed for the same complaint under subsection 26(2).

Confidentiality

(10) Communications and evidence arising from anything said or produced during the course of an alternative dispute resolution process under this Act are confidential, and are not admissible in any proceedings under this Act, or in any action, matter or other proceeding, without the written consent of the complainant and the medical practitioner or registered student.

Board of Inquiry

Appointment of Board of Inquiry

28. (1) Following a request under paragraph 26(1)(c), the Minister shall appoint a Board of Inquiry consisting of three or five members, including the following, to inquire into a complaint or information:

- (a) at least one medical practitioner registered under this Act;
- (b) at least one person who is
 - (i) not a medical practitioner registered under this Act, and
 - (ii) entitled to practice medicine in a province or other territory; and
- (c) at least one person who is
 - (i) not entitled to practice medicine in Nunavut, a province or another territory, and
 - (ii) not employed by the department responsible for the administration of this Act.

Powers and duties of Board of Inquiry

(2) A Board of Inquiry

- (a) subject to this section, has the powers and duties of a Board under the *Public Inquiries Act*;
- (b) may require the medical practitioner or registered student to undergo such medical examinations, including psychiatric examinations, as the Board of Inquiry considers necessary to aid its investigation;
- (c) has the right to obtain the results of medical examinations ordered under paragraph (b);
- (d) is not subject to the rules of evidence applicable to judicial proceedings;
- (e) may hold hearings

- (i) in person, or
- (ii) by any reasonable remote means that allows for simultaneous voice communication;
- (f) shall conduct its proceedings in accordance with the requirements of natural justice; and
- (g) makes decisions by vote of the majority of its members.

Complainant's right to be heard

(3) The complainant, if any, has the same right as the medical practitioner or registered student to attend and be heard at any hearings before the Board of Inquiry.

Representation

(4) The complainant, if any, and the medical practitioner or registered student who is the subject of the inquiry may be represented before the Board of Inquiry by agent or legal counsel.

Professional privilege

(5) A medical practitioner or registered student may not, in any proceedings before the Board of Inquiry, refuse to give evidence or produce a document on the grounds of professional privilege.

Witness fees

(6) A witness before the Board of Inquiry, other than the medical practitioner or registered student who is the subject of the inquiry, is entitled to witness fees in accordance with the Rules of the Nunavut Court of Justice.

Hearing of Board of Inquiry

29. (1) On being constituted and receiving a complaint or information under section 26, the Board of Inquiry shall hold a hearing to inquire into the complaint or information as soon as practicable.

Notice

- (2) A notice of the hearing shall be provided at least two weeks before the hearing to
- (a) the complainant, if any;
 - (b) the medical practitioner or registered student who is subject to the inquiry; and
 - (c) any other person that, in the opinion of the Board of Inquiry, has an interest in the matter.

Content of notice

- (3) A notice under subsection (2) must include
- (a) a copy of the substance of the charge against the medical practitioner or registered student, or a statement of the subject-matter of the inquiry; and
 - (b) a statement of the time and place of the hearing.

Decision of Board of Inquiry

- 30.** (1) On concluding the inquiry, the Board of Inquiry may
- (a) dismiss the complaint or information; or
 - (b) make one or more of the following orders:
 - (i) order that the medical practitioner or registered student be reprimanded,
 - (ii) order that the medical practitioner or registered student pay a fine not exceeding \$50,000,
 - (iii) order that the registration of the medical practitioner or registered student under this Act be suspended for a period not exceeding three years,
 - (iv) order that the registration of the medical practitioner or registered student under this Act be cancelled,
 - (v) order that the registration of the medical practitioner or registered student under this Act be made subject to restrictions, which, for greater certainty, may include
 - (A) limitations on the practice of medicine, and
 - (B) a requirement for treatment in an alcohol or other drug program.

Payment schedule

(2) An order under subparagraph (1)(b)(ii) may include a schedule for the payment of a fine, which must not exceed two years.

Order for costs

(3) If the Board of Inquiry makes an order under paragraph (1)(b), the Board of Inquiry may also make an order as to costs against the medical practitioner or registered student, and the costs shall be calculated and collected in accordance with the Rules of the Nunavut Court of Justice.

Notice of decision

(4) The Board of Inquiry shall notify the medical practitioner or registered student of its decision and any order for costs under this section in writing by

- (a) personal service; or
- (b) a method of delivery that provides confirmation that the medical practitioner or registered student has received the notice.

Payment of fine

- (5) A fine ordered under this section is payable to the Government of Nunavut
- (a) if the order includes a payment schedule, in accordance with that payment schedule; or
 - (b) in any other case, by full payment no later than
 - (i) 30 days after personal service under paragraph (4)(a), or
 - (ii) 45 days after the written notice under paragraph (4)(b) is sent.

Suspension for failure to pay

(6) Subject to an order of the Nunavut Court of Justice under section 31, if the medical practitioner or registered student fails to pay a fine or scheduled payment under this section in accordance with subsection (5), the registration of the medical practitioner or registered student is suspended until the fine or scheduled payment is paid in accordance with that subsection.

Registers

(7) The Board of Inquiry shall forward a copy of an order under this section to the Registrar who shall make the necessary amendments to the registers.

Appeal to Nunavut Court of Justice

Appeal

31. (1) A medical practitioner or registered student subject to an order of the Board of Inquiry may appeal the decision to the Nunavut Court of Justice.

Procedure

(2) Despite subsection 84(2) and section 89 of the *Judicature Act*, an appeal under this section

- (a) may not include a motion for a new trial in the Nunavut Court of Justice;
- (b) does not require an appeal book;
- (c) is based on the record of the Board of Inquiry provided under subsection (3); and
- (d) is determined on the basis of reasonableness, except for questions of jurisdiction which are determined on the basis of correctness.

Record

(3) When a decision of the Board of Inquiry is appealed to the Nunavut Court of Justice, the Board of Inquiry shall provide its record respecting the decision to the Clerk of the Nunavut Court of Justice, including all materials that would be submitted for a judicial review in accordance with the Rules of the Nunavut Court of Justice.

Decision on appeal

- (4) On an appeal under this section, the Nunavut Court of Justice may
- (a) stay the order pending appeal, in full or in part;
 - (b) make any finding that, in its opinion, should have been made;
 - (c) quash, confirm or vary the order or any part of it; or
 - (d) refer the matter back to the Board of Inquiry for further consideration in accordance with any direction of the Court.

Registers

(5) The Registrar shall make the necessary amendments to the registers in accordance with a decision under this section.

Reinstatement and removal of suspension

32. A person whose registration has been cancelled or suspended under section 30 may apply for reinstatement by making a new application under section 4

- (a) in the case of a cancellation, one year after the date of the order under section 30; or
- (b) in the case of a suspension, after half of the suspension has been served.

Interim suspension and restrictions

Interim suspension pending investigation

33. (1) Pending an investigation under section 25, the Review Officer may suspend the registration of a medical practitioner or registered student, or subject it to restrictions, if the Review Officer is of the opinion that doing so is necessary to protect the public interest.

Termination or review

(2) A suspension or restriction under subsection (1)

- (a) is terminated if the Review Officer dismisses the complaint or information under paragraph 24(1)(a); and
- (b) is subject to review by the Fitness to Practice Committee or Board of Inquiry immediately after they are seized of the complaint or information.

Interim suspension pending inquiry

(3) Pending an inquiry of the Board of Inquiry, the Board of Inquiry may suspend the registration of a medical practitioner or registered student, or subject it to restrictions, if the Board of Inquiry is of the opinion that doing so is necessary to protect the public interest.

Termination

(4) A suspension or restriction under subsection (3) is terminated when the Board of Inquiry issues its decision under subsection 30(1), but such termination does not prejudice the operation of any suspension or restriction ordered by the Board as part of its decision.

Right to make representations

(5) Prior to suspending or restricting a registration under subsection (1) or (3), the Review Officer or Board of Inquiry, as the case may be, shall provide the medical practitioner or registered student a reasonable opportunity to present arguments and evidence as to why their registration should not be suspended or restricted.

Notice of decision

(6) The Review Officer or Board of Inquiry shall notify the medical practitioner or registered student of a suspension or restriction under this section in writing by

- (a) personal service; or
- (b) a method of delivery that provides confirmation that the medical practitioner or registered student has received the notice.

Registers

(7) The Review Officer or Board of Inquiry shall notify the Registrar of a suspension or restriction under this section and the Registrar shall make the necessary amendments to the registers.

Judicial review of suspension or restriction

(8) A medical practitioner or registered student whose registration is subject to a suspension or restriction under this section may apply for judicial review of the suspension or restriction in accordance with the Rules of the Nunavut Court of Justice.

Fitness to practice

Fitness to Practice Committee

34. (1) The Minister shall establish a Fitness to Practice Committee

- (a) by an agreement under section 39; or
- (b) by appointing three to five persons who are entitled to practice medicine in Nunavut, a province or another territory.

Exception

(2) The Fitness to Practice Committee need not be established under subsection (1) when there are no medical practitioners or registered students who are subject to its jurisdiction.

Consent

(3) The Fitness to Practice Committee only has jurisdiction over a medical practitioner or registered student if the medical practitioner or registered student consents to the jurisdiction.

Refusal or revocation of consent

(4) If a medical practitioner or registered student that is referred to the Fitness to Practice Committee does not consent to the jurisdiction of the Fitness to Practice Committee, or revokes their consent, the Fitness to Practice Committee shall cease any action under this section and refer the matter back to the Review Officer, and the Review Officer shall

- (a) if the referral was made under subsection 22(2), determine whether an investigator should be appointed pursuant to subsection 24(3);
- (b) if the referral was made under paragraph 24(1)(b), appoint an investigator under paragraph 24(1)(c);
- (c) if the referral was made under paragraph 24(3)(a), appoint an investigator under paragraph 24(3)(b); or
- (d) if the referral was made under paragraph 26(1)(b), request the appointment of a Board of Inquiry under paragraph 26(1)(c).

Deemed revocation

(5) A medical practitioner or registered student who fails to comply with a requirement of the Fitness to Practice Committee under this section is deemed to have revoked consent for the purposes of subsection (4).

Power of Fitness to Practice Committee

(6) The Fitness to Practice Committee may require the medical practitioner or registered student to

- (a) submit to specified physical or mental examinations, or both;
- (b) consent to the release of the results of examinations under paragraph (a) to the Fitness to Practice Committee;
- (c) consent to the release of their other medical records to the Fitness to Practice Committee;
- (d) upon the recommendation of the person who performed a physical or mental examination of the medical practitioner or registered student, submit to treatment by a person or at a facility specified by the Fitness to Practice Committee;
- (e) consent to the release of the results and reports of treatments under paragraph (d) to the Fitness to Practice Committee; and
- (f) cease practicing medicine, or restrict their practice of medicine in a manner specified by the Fitness to Practice Committee, until
 - (i) the results of a physical or mental examination have been released, or
 - (ii) if the results of a physical or mental examination indicate that the medical practitioner or registered student is incapable of practicing medicine or unfit to practice medicine, the Fitness to Practice Committee is satisfied that the medical practitioner or registered student is no longer incapable of practicing medicine or unfit to practice medicine.

Right to make representations

(7) Prior to requiring a medical practitioner or registered student to cease or restrict their practice of medicine under paragraph (6)(f), the Fitness to Practice Committee shall provide the medical practitioner or registered student a reasonable opportunity to present arguments and evidence as to why the requirement should not be made.

Compliance with restrictions

(8) If the Fitness to Practice Committee requires the medical practitioner or registered student to restrict their practice of medicine under paragraph (6)(f), the Fitness to Practice Committee may require them to, for the purposes of ensuring compliance,

- (a) consent to be monitored by a practice monitor designated by the Fitness to Practice Committee, and to the reports of the practice monitor being submitted to the Fitness to Practice Committee;
- (b) submit to site visits or practice audits by the Fitness to Practice Committee or a person designated by the Fitness to Practice Committee;
- (c) provide billing and other records to the Fitness to Practice Committee;
- (d) submit to ongoing medical care or health monitoring; and
- (e) consent to the release of reports and results from ongoing medical care and health monitoring to the Fitness to Practice Committee.

Referral to discipline

(9) If, following a referral under paragraph 24(1)(b), 24(3)(a) or 26(1)(b) and the necessary examinations under paragraph (6)(a), the Fitness to Practice Committee determines that the alleged improper conduct of the medical practitioner or registered student is not caused by incapacity or being unfit to practice medicine, the Fitness to Practice Committee shall refer the matter back to the Review Officer.

Continuance of disciplinary action

(10) Following a referral under subsection (9), unless the complaint or information was limited to allegations of improper conduct under paragraph 20(b), the Review Officer shall,

- (a) if the referral was made under paragraph 24(1)(b), appoint an investigator under paragraph 24(1)(c);
- (b) if the referral was made under paragraph 24(3)(a), appoint an investigator under paragraph 24(3)(b); or
- (c) if the referral was made under paragraph 26(1)(b), request the appointment of a Board of Inquiry under paragraph 26(1)(c).

BREACHES BY MEDICAL PRACTITIONER OR REGISTERED STUDENT

Suspensions, restrictions and liability insurance

- 35.** (1) A medical practitioner or registered student shall not
- (a) if their registration has been suspended, practice medicine directly or indirectly, or be associated in the practice of medicine with a medical practitioner; or
 - (b) if their registration is subject to restrictions,
 - (i) practice medicine directly or indirectly in contravention of those restrictions, or
 - (ii) otherwise fail to comply with those restrictions;
 - (c) in the case of a registered student, practice medicine other than as specified in the regulations for their category of registration;
 - (d) practice medicine without the liability insurance required under the regulations; or
 - (e) conduct clinical research
 - (i) without a research permit, or
 - (ii) in contravention of the terms of their research permit or the restrictions on their research permit.

Practice with others

(2) A medical practitioner or registered student shall not directly or indirectly associate themselves in the practice of medicine with

- (a) a medical practitioner or registered student whose registration is under suspension;
- (b) a medical practitioner or registered student who is practicing medicine directly or indirectly in contravention of any restriction on their registration;

- (c) a registered student who is practicing medicine other than as specified in the regulations for their category of registration;
- (d) a medical practitioner or registered student who does not have liability insurance required under the regulations; or
- (e) a person who is not entitled to practice medicine under this Act.

Sanction

36. (1) If the Registrar has reasonable grounds to believe that a medical practitioner or registered student has contravened section 35, the Registrar may

- (a) issue a warning to the medical practitioner or registered student; or
- (b) order the medical practitioner or registered student to pay an administrative penalty in accordance with the regulations.

Limits on warnings

(2) A Registrar may not issue a warning under paragraph (1)(a) if

- (a) the contravention is more serious than a contravention that would warrant a simple warning; or
- (b) the contravention is of a type in respect of which a warning has already been given to the medical practitioner or registered student.

Multiple administrative penalties

(3) An order under paragraph (1)(b) may provide for the payment of

- (a) a separate administrative penalty for each occurrence of a contravention; and
- (b) a separate administrative penalty for each provision of section 35 that was not complied with.

Former medical practitioner or registered student

(4) The Registrar may order a former medical practitioner or registered student to pay an administrative penalty under paragraph (1)(b) with respect to their conduct while they were a medical practitioner or registered student.

Failure to pay administrative penalty

(5) If a medical practitioner or registered student fails to pay an administrative penalty as ordered under paragraph (1)(b) or into court under subsection 37(3) within 30 days of the serving of the notice under subsection (6),

- (a) the Registrar may suspend the registration until the administrative penalty is paid;
- (b) the order may be filed with the Nunavut Court of Justice and enforced as if it were an order of the court; and
- (c) the administrative penalty is a debt to the Government of Nunavut and is enforceable as such.

Notice

(6) When imposing a sanction under subsection (1) or (5) the Registrar shall, in accordance with the regulations, serve a notice on the medical practitioner or registered student, or former medical practitioner or registered student, which provides the following information:

- (a) the sanction;
- (b) the reason for the sanction;
- (c) the consequences to the medical practitioner or registered student of the sanction;
- (d) in the case of an administrative penalty, a copy of the order indicating
 - (i) the amount of the penalty and the date before which it must be paid,
 - (ii) if applicable, notice that their registration may be suspended for non-payment of the administrative penalty, and
 - (iii) information on how to appeal to the Nunavut Court of Justice;
- (e) in the case of a suspension, notice that the suspension is in effect until the administrative penalty is paid.

Payment precludes conviction

(7) A medical practitioner or registered student, or former medical practitioner or registered student, against whom an administrative penalty has been imposed under this section may not be charged with or convicted of an offence under this Act for the same matter.

Appeal to Court – administrative penalty

37. (1) Subject to subsection (3), a medical practitioner or registered student on whom an administrative penalty has been imposed by an order made under paragraph 36(1)(b) may, within 30 days of the date on which the notice of the sanction is served on the medical practitioner or registered student, appeal the order to the Nunavut Court of Justice.

Party

(2) The Registrar is a party to an appeal under this section.

Payment into court

(3) An appeal under subsection (1) may only be made after the medical practitioner or registered student pays the amount of the administrative penalty into court pending appeal.

Decision

- (4) The amount paid into court under subsection (3) shall,
- (a) if the appeal is granted, be returned to the medical practitioner or registered student; or
 - (b) if the appeal is not granted, be deposited in the Consolidated Revenue Fund.

Question on appeal

(5) The questions on appeal under this section shall be limited to jurisdiction and whether the medical practitioner or registered student committed the act or omission that constitutes the contravention for which the administrative penalty was imposed.

Procedure

(6) Despite subsection 84(2) and section 89 of the *Judicature Act*, an appeal under this section

- (a) may not include a motion for a new trial in the Nunavut Court of Justice;
- (b) does not require an appeal book;
- (c) is based on the record of the Registrar provided under subsection (8); and
- (d) is determined on the basis of reasonableness, except for questions of jurisdiction which are determined on the basis of correctness.

Conduct of appeal

(7) In an appeal under this section,

- (a) a finding of fact or the discharge of a presumption is to be made on a balance of probabilities;
- (b) subject to paragraph (c), no proof of intention, negligence or other mental element is required for a finding that a medical practitioner or registered student contravened section 35;
- (c) no defence of due diligence or other defence based on a mental element shall be admitted or used to rebut a finding that a medical practitioner or registered student contravened subsection 35(1); and
- (d) a defence of due diligence may be admitted or used to rebut a finding that a medical practitioner or registered student contravened subsection 35(2).

Record

(8) When an order or suspension is appealed to the Nunavut Court of Justice, the Registrar shall provide the Registrar's record respecting the order or suspension to the Clerk of the Nunavut Court of Justice, including all materials that would be submitted for a judicial review in accordance with the Rules of the Nunavut Court of Justice.

AGREEMENTS

Agreements for telehealth and states of emergency

38. (1) The Minister may enter into an agreement with a person or body regulating persons practicing medicine in a province or another territory, or the government of a province or other territory that has authority over such a person or body, for

- (a) the remote practice of medicine with respect to a patient in Nunavut by persons entitled to practice medicine in that province or territory; or
- (b) the practice of medicine in Nunavut during a state of emergency by persons entitled to practice medicine in that province or territory.

Included provisions

(2) An agreement under this section must include provisions

- (a) indicating, of the classes of persons entitled to practice medicine in the province or other territory, which classes are entitled to practice medicine in Nunavut or with respect to a patient in Nunavut;

- (b) indicating that the agreement only entitles the persons referred to in paragraph (a) to
 - (i) practice medicine outside Nunavut with respect to a patient in Nunavut,
 - (ii) practice medicine in an area of Nunavut that is subject to a state of emergency, or
 - (iii) practice medicine in accordance with subparagraph (i) and (ii);
- (c) requiring the person or body to investigate and discipline persons referred to in paragraph (a) for any improper conduct or other disciplinary matter respecting their practice of medicine with respect to patients in Nunavut in substantially the same manner as they would respecting their practice with respect to patients in the province or other territory;
- (d) requiring the person or body to inform the Registrar of any action referred to in paragraph (c) that is taken by the other government or body; and
- (e) requiring the Registrar to forward any complaints received with respect to persons referred to in paragraph (a) to the person or body.

Reciprocity

- (3) An agreement under this section may provide for
 - (a) the remote practice of medicine with respect to a patient in the province or other territory by persons entitled to practice medicine in Nunavut; or
 - (b) the practice of medicine in the province or other territory in specified circumstances by persons entitled to practice medicine in Nunavut.

Included provisions – reciprocity

- (4) With respect to the matters referred to in subsection (3), an agreement under this section may include provisions
 - (a) indicating, of the persons entitled to practice medicine in Nunavut, who is entitled to practice medicine in the province or other territory or with respect to a patient in the province or other territory;
 - (b) indicating that the agreement only entitles the persons referred to in paragraph (a) to
 - (i) practice medicine outside the province or other territory with respect to a patient in the province or other territory,
 - (ii) practice medicine in an area of the province or other territory in specified circumstances, or
 - (iii) practice medicine in accordance with subparagraph (i) and (ii);
 - (c) requiring the Review Officer to process complaints with respect to persons referred to in paragraph (a) for any improper conduct or other disciplinary matter respecting their practice of medicine with respect to patients in the province or other territory in substantially the same manner as they would with respect to their practice with respect to patients in Nunavut;

- (d) requiring the Registrar to inform the person or body of any action taken under sections 19 to 34 with respect to persons referred to in paragraph (a); and
- (e) requiring the person or body to forward any complaints received with respect to persons referred to in paragraph (a) to the Registrar.

Investigation and discipline in accordance with this Act

(5) An agreement under this section does not preclude any investigation or disciplinary process under this Act, but the Review Officer may refuse to conduct an investigation or other disciplinary process if the other government or body is undertaking the investigation or other disciplinary process.

Witnesses

(6) A person or body with whom or with respect to whom an agreement under this section is in force may, in the same manner and to the same extent as authorized by the laws of their province or territory,

- (a) issue subpoenas or summons for a person to appear as a witness;
- (b) require any person to give evidence on oath or affirmation; or
- (c) require any person to produce documents and things.

Appearance or evidence in Nunavut

(7) A subpoena, summons or other requirement referred to in subsection (6) that requires a person to appear, give evidence or produce documents or things in Nunavut, including by remote means for proceedings outside Nunavut,

- (a) has authority in Nunavut as if it had been issued under this Act in Nunavut; and
- (b) may be registered with the Clerk of the Nunavut Court of Justice and is, following such registration, enforceable as an order of the Court.

Registrar and Attorney General has standing

(8) The Registrar and the Attorney General for Nunavut have standing before the Nunavut Court of Justice in any matter concerning the enforcement of a subpoena, summons or other requirement referred to in subsection (6).

Appearance or evidence outside Nunavut

(9) A subpoena, summons or other requirement referred to in subsection (6) that requires a person to appear, give evidence or produce documents or things outside Nunavut is enforceable in accordance with the *Interprovincial Subpoenas Act*.

Agreements for Fitness to Practice Committee

39. (1) The Minister may enter into an agreement with person or body regulating persons practicing medicine in a province or another territory, or the government of a province or other territory that has authority over such a person or body, for a person or committee of the body to act as the Fitness to Practice Committee under this Act.

Content

- (2) An agreement under subsection (1) shall
- (a) provide for the collection, use, disclosure and exchange of information for the purpose of the Fitness to Practice Committee, the Review Officer and the Registrar exercising their functions under this Act;
 - (b) provide that information collected, used, disclosed or exchanged under the agreement may not be further used or disclosed for any purpose other than one specified in paragraph (a), unless applicable legislation requires such use or disclosure;
 - (c) if the *Archives Act* or an enactment of the province or other territory does not provide for the retention and destruction of information collected, used, disclosed or exchanged under the agreement, provide for retention and destruction schedules for the information;
 - (d) subject to subsections (3) and (4), provide that personal information collected, used, disclosed or exchanged under the agreement is confidential; and
 - (e) establish mechanisms for maintaining the confidentiality and security of information collected, used, disclosed or exchanged under the agreement.

Exception – information in registers

(3) An agreement under this section may not provide that personal information contained in the registers that is available for public inspection under this Act is confidential.

Exception – proceedings

(4) An agreement under this section may provide that personal information collected, used, disclosed or exchanged under the agreement is not confidential to the extent that the personal information is necessary for proceedings that are public, including disciplinary proceedings.

Information-sharing agreements

40. (1) The Minister may enter into agreements for the collection, use, disclosure and exchange of personal information with the following:

- (a) a person or body regulating persons practicing medicine in a province or another territory;
- (b) the government of a province or other territory that has authority over a person or body referred to in paragraph (a);
- (c) a person or body prescribed by regulation.

Limit

(2) An agreement may only be entered into under subsection (1) for the purposes of administering, enforcing and evaluating this Act or the laws of a province or other territory respecting persons practicing medicine.

Content of agreement

- (3) An agreement entered into under subsection (1) shall
- (a) specify only those purposes under subsection (2) which are necessary for the purposes of the agreement;
 - (b) provide that information collected, used, disclosed or exchanged under the agreement may not be further used or disclosed for any purpose other than one specified in the agreement, unless applicable legislation requires such use or disclosure;
 - (c) provide that information collected, used, disclosed or exchanged for the purpose of evaluating a law must be in the form of
 - (i) aggregate information that relates only to groups of individuals in the form of statistical information or aggregated, general or anonymous data, or
 - (ii) anonymous information that relates to an unidentifiable individual;
 - (d) if the *Archives Act* or an enactment of the province or other territory does not provide for the retention and destruction of information collected, used, disclosed or exchanged under the agreement, provide for retention and destruction schedules for the information;
 - (e) subject to subsections (4) and (5), provide that personal information collected, used, disclosed or exchanged under the agreement is confidential; and
 - (f) establish mechanisms for maintaining the confidentiality and security of information collected, used, disclosed or exchanged under the agreement.

Exception – information in registers

(4) An agreement under this section may not provide that personal information contained in the registers that is available for public inspection under this Act is confidential.

Exception – proceedings

(5) An agreement under this section may provide that personal information collected, used, disclosed or exchanged under the agreement is not confidential to the extent that the personal information is necessary for proceedings that are public, including disciplinary proceedings.

GENERAL

Right to recovery of fees

41. (1) A person who is entitled to practice medicine under this Act may bring an action before a judge for the recovery of reasonable charges for

- (a) professional aid, advice, and visits; and
- (b) the cost of any medicines, materials or appliances supplied by them.

Prohibition

(2) A person is not entitled to collect or recover a fee, remuneration or other reward for services rendered or material and appliances provided in practicing medicine while

- (a) the person was not entitled to practice medicine under this Act; or
- (b) the person rendered the service or provided the material or appliances in contravention of a restriction on their entitlement to practice medicine under this Act.

Emergency treatment

42. Despite the *Dental Profession Act*, the *Midwifery Profession Act*, the *Pharmacy Act* or the *Veterinary Profession Act*, a medical practitioner may

- (a) in the course of administering medical aid or treatment, do anything for which a licence or registration is required under those Acts; and
- (b) in an emergency, do anything to attempt to relieve the pain or suffering of a person or animal.

Forms

43. (1) The Registrar may approve forms for the purposes of this Act.

Statutory Instruments Act

(2) The *Statutory Instruments Act* does not apply to forms under this Act.

Protection from liability

44. (1) A person having powers or duties under this Act or the regulations is not personally liable for any loss or damage suffered by reason of anything done or not done by them in good faith in the exercise of their powers or in the performance their duties under this Act or the regulations.

Vicarious liability

(2) For greater certainty, despite subsection (1), the Government of Nunavut is vicariously liable for anything done or not done by a person referred to in that subsection if the government would be vicariously liable in the absence of that subsection.

Jurisdiction

45. (1) The provisions of this Act respecting the conduct, capacity or fitness of medical practitioners or registered students apply to

- (a) the conduct of persons registered under this Act, whether the conduct occurred in Nunavut or in another jurisdiction;
- (b) the conduct in Nunavut of other persons practicing medicine under this Act;
- (c) the capacity or fitness to practice medicine of persons registered under this Act, whether they practice medicine in Nunavut or in another jurisdiction; and
- (d) the capacity or fitness to practice medicine of other persons practicing medicine under this Act in Nunavut.

No loss of jurisdiction

(2) Action under this Act with respect to the conduct of a medical practitioner or registered student may continue even if

- (a) they are no longer registered under this Act; or
- (b) they are no longer practicing medicine in Nunavut or entitled to practice medicine in Nunavut.

Action by other jurisdiction

(3) A medical practitioner or registered student may be subject to action under this Act even if they have already been subject to action in another jurisdiction with respect to the same matter.

Expenses

46. Subject to this Act and the *Financial Administration Act*, the Minister shall pay the remuneration, if any, and the expenses of

- (a) the Review Officer;
- (b) a facilitator appointed under subsection 24(2) or 26(2);
- (c) an investigator appointed under section 25;
- (d) the Fitness to Practice Committee;
- (e) a Board of Inquiry; and
- (f) the Medical Registration Committee.

OFFENCES

Entitlement to practice medicine

47. (1) Subject to this section, a person who is not registered under this Act shall not

- (a) practice medicine in Nunavut, or with respect to a patient located in Nunavut; or
- (b) conduct clinical research in Nunavut.

Interns and residents

(2) For greater certainty, a person shall not practice as a medical intern or resident unless

- (a) they are a registered student and their category of registration allows for such practice; or
- (b) they are a medical practitioner.

Exception – telehealth agreements

(3) A person located outside Nunavut is entitled to practice medicine with respect to a patient in Nunavut if

- (a) the person is licenced or registered to practice medicine in a jurisdiction with which an agreement under paragraph 38(1)(a) is in force; and
- (b) the person practices medicine with respect to the patient in accordance with the agreement.

Exception – emergency agreements

(4) A person licensed or registered to practice medicine in a jurisdiction with which an agreement under paragraph 38(1)(b) is in force is entitled to practice medicine in an area of Nunavut that is under a state of emergency.

Exception – armed forces

(5) This section does not apply to a person who is a member of the Canadian Forces constituted under the *National Defence Act* (Canada) or of a visiting force as defined in the *Visiting Forces Act* (Canada) and who

- (a) is entitled to practice medicine with the Canadian Forces or visiting force; and
- (b) only practices medicine with the Canadian Forces or visiting force.

Exceptions – general

(6) This section does not apply to or affect

- (a) consultation between a medical practitioner and a person who is entitled to practice medicine in a province or another territory;
- (b) the furnishing of first aid or other temporary assistance in cases of emergency;
- (c) the dispensing of medicine or provision of medical treatment under the general direction of a medical practitioner to persons in areas that are remote from locations where medical services are available;
- (d) the domestic administration of family remedies;
- (e) the practice of a religion without pretending a knowledge of medicine;
- (f) the manufacture, fitting or selling of artificial limbs or similar appliances; or
- (g) the practice of any of the following by a person who is authorized to do so under the laws of Nunavut:
 - (i) dentistry,
 - (ii) the profession of pharmaceutical chemistry,
 - (iii) nursing,
 - (iv) practical nursing,
 - (v) midwifery,
 - (vi) psychology.

Publicity

- 48.** (1) Subject to this section, a person who is not registered under this Act shall not
- (a) use a name, title or description implying or calculated to lead people to believe that they are a medical practitioner;
 - (b) use the title "Doctor", "Surgeon" or "Physician" or an abbreviation of these titles;
 - (c) use a word or combination of words, or an abbreviation of any word or combination of words, that are indicative of or used in substitution of the titles referred to in paragraph (b); or
 - (d) advertise or otherwise hold themselves out in any way to be a medical practitioner.

Exception – agreements

(2) This section does not apply to a person entitled to practice medicine in accordance with subsection 47(3) or (4).

Exceptions – general

(3) Paragraph (1)(b) does not apply with respect to

- (a) a licensee under the *Dental Profession Act* using the titles "Doctor" or "Dental Surgeon" with their name;
- (b) a veterinary surgeon under the *Veterinary Profession Act* using the titles "Doctor" or "Veterinary Surgeon" with their name; or
- (c) a person who is entitled, by reason of a degree granted by a university, using the title "Doctor" with their name, unless the use of the title as an occupational designation relating to the treatment of human ailments or physical defects may imply or lead others to infer that the person is a medical practitioner.

Offence and punishment

49. (1) Subject to subsection 36(7), a person who contravenes section 35, 47 or 48 is guilty of an offence and liable on summary conviction

- (a) for a first offence, to a fine of not more than \$5,000; and
- (b) for a subsequent offence, to a fine of not more than \$10,000, imprisonment for a term of not more than six months, or both.

Subsequent offence

(2) An offence is a subsequent offence if the person who committed the offence has previously been convicted of any offence under this Act.

Limitation period

(3) A prosecution for an offence under this Act may not be commenced more than two years after the date when the offence is alleged to have been committed.

Burden of proof

(4) In a prosecution for an offence under this Act, the accused has the burden of proof as to their entitlement to practise medicine in Nunavut.

REGULATIONS

Regulations

50. (1) The Minister may make regulations

- (a) respecting the scope and standards of practice of medical practitioners and registered students;
- (b) establishing a code of ethics;
- (c) respecting records that must be maintained by medical practitioners;
- (d) respecting the information kept in the registers;
- (e) respecting the issuance of certificates of professional conduct;

- (f) prescribing fees for the purposes of this Act and the regulations;
- (g) prescribing the information and documents
 - (i) which must be provided by applicants, medical practitioners and registered students under this Act, or
 - (ii) the obtention of which applicants, medical practitioners and registered students must provide consent for;
- (h) respecting qualifications for registration in the registers;
- (i) allowing for the Medical Registration Committee to provide exemptions for some or all of the qualifications for registration in the registers;
- (j) allowing or requiring the Medical Registration Committee to impose restrictions instead of refusing to register a person for failing to meet specified requirements under paragraph (g) or (h);
- (k) providing for periodic renewals in cases where a person is registered in a register pursuant to an exemption referred to in paragraph (i);
- (l) respecting the categories of registrations in the Education Register, and the entitlement of persons registered in each category to practice medicine;
- (m) respecting clinical currency requirements for medical practitioners and registered students;
- (n) prescribing activities which do not constitute the practice of medicine;
- (o) defining "clinical research" for the purposes of this Act;
- (p) respecting ethical standards for clinical research under this Act, including establishing ethical standards committees for the purpose of verifying compliance with those ethical standards;
- (q) prescribing conduct that is improper conduct for the purposes of this Act;
- (r) respecting forms under this Act;
- (s) respecting administrative penalties imposed under paragraph 36(1)(b);
- (t) respecting liability insurance which must be maintained by medical practitioners and registered students; and
- (u) respecting the operation of the Medical Registration Committee.

Adoption of rules or standards

(2) The regulations may incorporate by reference a code of rules or standards that has been established by an association, person or body of persons and is available in written form, as established or as amended from time to time, and upon incorporation the code has force of law to the extent and with such variations as may be specified in the regulations.

Administrative penalties

- (3) Administrative penalties under the regulations may
- (a) not exceed \$10,000 per contravention;
 - (b) be different for different contraventions;
 - (c) be different in the case of repeat contraventions; and
 - (d) be daily in the case of continuing contraventions.

Power to differentiate

- (4) Regulations made under this Act may
- (a) be general or particular in application;

- (b) be different for different classes or subclasses; and
- (c) establish classes for the purposes of paragraph (b).

Transitional

Definition

51. (1) In this section, "former Act" means the *Medical Profession Act*, R.S.N.W.T. 1988,c.M-9, as it read immediately prior to its repeal under this Act.

Part One of Medical Register

(2) A person registered in Part One of the Medical Register under the former Act is, on the coming into force of this Act, registered in the General Register under this Act with the same restrictions or suspensions as they had under the former Act.

Part Two of Medical Register

(3) A person registered in Part Two of the Medical Register under the former Act is, on the coming into force of this Act, registered in the Specialist Register under this Act with the same restrictions or suspensions as they had under the former Act.

Education Register

(4) A person registered in the Education Register under the former Act is, on the coming into force of this Act, registered in the appropriate category of the Education Register under this Act, with the same restrictions or suspensions as they had under the former Act.

Temporary Register

- (5) A person registered in the Temporary Register under the former Act
- (a) if their temporary permit was issued under section 16 of the former Act, is not registered in a register under this Act; or
 - (b) if their temporary permit was issued under section 17 of the former Act, is temporarily registered in the General Register, Specialist Register, or both, as is appropriate for the scope of practice authorized by the temporary permit under the former Act, with the same dates of validity as the temporary permit under the former Act.

Related amendments

52. (1) This section amends the *Psychologists Act*.

(2) The following is added after section 15:

Agreements for telepsychology

15.1. (1) The Minister may enter into an agreement with person or body regulating persons practicing psychology in a province or another territory, or the government of a province or other territory that has authority over such a person or body, for the remote practice of psychology with respect to a patient in Nunavut by persons entitled to practice psychology in that province or territory.

Included provisions

- (2) An agreement under this section must include provisions
- (a) indicating, of the classes of persons entitled to practice psychology in the province or other territory, which classes are entitled to practice psychology in Nunavut or with respect to a patient in Nunavut;
 - (b) indicating that the agreement only entitles the persons referred to in paragraph (a) to practice psychology outside Nunavut with respect to a patient in Nunavut;
 - (c) requiring the person or body to investigate and discipline persons referred to in paragraph (a) for any improper conduct or other disciplinary matter respecting their practice of psychology with respect to patients in Nunavut in substantially the same manner as they would respect their practice with respect to patients in the province or other territory;
 - (d) requiring the person or body to inform the Registrar of any action referred to in paragraph (c) that is taken by the other government or body; and
 - (e) requiring the Registrar to forward any complaints received with respect to persons referred to in paragraph (a) to the person or body.

Reciprocity

(3) An agreement under this section may provide for the remote practice of psychology with respect to a patient in the province or other territory by persons entitled to practice psychology in Nunavut.

Included provisions – reciprocity

- (4) With respect to the matters referred to in subsection (3), an agreement under this section may include provisions
- (a) indicating, of the persons entitled to practice psychology in Nunavut, who is entitled to practice psychology in the province or other territory or with respect to a patient in the province or other territory;
 - (b) indicating that the agreement only entitles the persons referred to in paragraph (a) to practice psychology outside the province or other territory with respect to a patient in the province or other territory;
 - (c) requiring the Minister to process complaints respecting persons referred to in paragraph (a) for any improper conduct or other disciplinary matter respecting their practice of psychology with respect to patients in the province or other territory in substantially the same manner as they would with respect their practice with respect to patients in Nunavut;
 - (d) requiring the Registrar to inform the person or body of any action referred to in paragraph (c) that is taken by the Minister; and
 - (e) requiring the person or body to forward any complaints received with respect to persons referred to in paragraph (a) to the Registrar.

Investigation and discipline in accordance with this Act

(5) An agreement under this section does not preclude any investigation or disciplinary process under this Act, but the Minister may refuse to conduct an investigation or other

disciplinary process if the other government or body is undertaking the investigation or other disciplinary process.

Witnesses

(6) A person or body with whom or with respect to whom an agreement under this section is in force may, in the same manner and to the same extent as authorized by the laws of their province or territory,

- (a) issue subpoenas or summons for a person to appear as a witness;
- (b) require any person to give evidence on oath or affirmation; or
- (c) require any person to produce documents and things.

Appearance or evidence in Nunavut

(7) A subpoena, summons or other requirement referred to in subsection (6) that requires a person to appear, give evidence or produce documents or things in Nunavut, the subpoena, summons or other requirement

- (a) has authority in Nunavut as if it had been issued under this Act in Nunavut; and
- (b) may be registered with the Clerk of the Nunavut Court of Justice and is, following such registration, enforceable as an order of the Court.

Registrar and Attorney General has standing

(8) The Registrar and the Attorney General for Nunavut have standing before the Nunavut Court of Justice in any matter concerning the enforcement of a subpoena, summons or other requirement referred to in subsection (6).

Appearance or evidence outside Nunavut

(9) A subpoena, summons or other requirement referred to in subsection (6) that requires a person to appear, give evidence or produce documents or things outside Nunavut is enforceable in accordance with the *Interprovincial Subpoenas Act*.

(3) The following is added after subsection 16(4):

Exception – telepsychology agreements

(5) Subsection (1) does not apply to a person located outside Nunavut if the person is licenced or registered to practice psychology in a jurisdiction with which an agreement under paragraph 15.1(1) is in force.

Consequential amendments

53. (1) This section amends the *Ophthalmic Medical Assistants Act*.

(2) The definition of "ophthalmologist" in section 1 is amended by replacing "certified under subsection 9(2) of the *Medical Profession Act*" with "registered in the Specialist Register under the *Medical Profession Act*".

(3) Paragraph 17(1)(b) is amended by replacing "section 46" with "subsection 47(6)".

Repeal

Medical Profession Act

54. *Medical Profession Act, R.S.N.W.T. 1988,c.M-9, is repealed.*

Commencement

Coming into force

55. This Act comes into force on a day to be fixed by order of the Commissioner.