

The Medical Profession Act, 1981

being

Chapter M-10.1 of the *Statutes of Saskatchewan, 1980-81* (consult Tables of Saskatchewan Statutes for effective date) as amended by the *Statutes of Saskatchewan*, 1982-83, c.16; 1984-85-86, c.38; 1988-89, c.13; [1989-90, c.43](#) and [54](#); [1991, c.T-1.1](#) and [c.6](#); [1993, c.31](#); [1995, c.12](#); [2000, c.15](#); [2002, c.R-8.2](#) and [c.21](#); [2003, c.P-14.1](#) and [c.29](#); [2004, c.L-16.1](#) and [c.60](#); [2008, c.32](#); and [2010, c.B-12](#) and [c.19](#).

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

Table of Contents

<p>PART I Title and Interpretation SHORT TITLE</p> <p>1 Short title</p> <p>INTERPRETATION</p> <p>2 Interpretation</p> <p>PART II College of Physicians and Surgeons COLLEGE</p> <p>3 College continued</p> <p>4 Members of college</p> <p>COUNCIL</p> <p>5 Council continued, composition</p> <p>6 Bylaws of the council</p> <p>7 Meetings of council</p> <p>8 Remuneration to council, etc.</p> <p>APPOINTMENT OF MEMBERS OF COUNCIL</p> <p>9 Public appointees</p> <p>ELECTION OF MEMBERS TO COUNCIL</p> <p>10 Procedure generally</p> <p>11 Repealed</p> <p>12 Eligibility to be elected; eligibility to vote</p> <p>13 List of eligible members</p> <p>14 Nomination procedure</p> <p>15 Procedure at election</p> <p>16 Validity of ballots, etc.</p> <p>17 Repealed</p> <p>18 Equality of votes</p> <p>19 Disposition of voting papers</p> <p>20 Protested election; petition</p> <p>21 New election</p> <p>PRESIDENT AND OFFICERS</p> <p>22 Election of president, etc.</p> <p>23 Election of officers</p> <p>24 Registrar</p> <p>24.1 Deputy Registrar</p> <p>25 Other officers and employees</p> <p>26 Remuneration to officers and employees</p>	<p>PART III Registration, Licences, etc. REGISTRATION OF PHYSICIANS</p> <p>27 Register</p> <p>28 Licence, registration</p> <p>29 Provisional licence, registration</p> <p>30 Special licence, registration</p> <p>30.1 Restrictions on certain licences</p> <p>31 Temporary registration</p> <p>31.1 Delegation to registrar</p> <p>32 Vesting of certain powers in event of emergency</p> <p>33 Appeal</p> <p>REGISTRATION OF PERSONS IN TRAINING</p> <p>34 Registration in education register</p> <p>35 Rights of persons named in education register</p> <p>36 Removal of name improperly registered</p> <p>37 Repealed</p> <p>PART III.1 Professional Corporations</p> <p>37.1 Professional corporation</p> <p>37.2 Restrictions on practising in name of corporation</p> <p>37.3 Corporate register</p> <p>37.4 Registration, permit</p> <p>37.5 Revocation of permit</p> <p>37.6 Discipline</p> <p>37.7 Appeal</p> <p>37.8 Application of Act</p> <p>37.9 Patient relations</p> <p>PART IV Fees</p> <p>38 to 40 Repealed</p> <p>41 Inactive member</p> <p>42 Annual certificate</p> <p>PART IV.1 Registration of Podiatric Surgeons</p> <p>42.1 Podiatric surgeon permits</p> <p>42.2 Podiatric surgical register</p> <p>42.3 Protection of title</p> <p>42.4 Practice not limited</p>
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**PART V
Discipline**

- 42.5 Interpretation of Part
- 42.6 Limitation period
- 43 Appointment of discipline committee
- 43.1 Investigation of allegations
- 44 Appointment of preliminary inquiry committee
- 45 Competency committee
- 46 Charges
- 47 Preliminary inquiry committee
- 47.1 Authorization for entry and search
- 47.2 Requirements of search
- 47.3 Copy of books, etc., as evidence
- 47.4 Report of investigation
- 47.5 Action by council in report
- 47.6 Council may require charge to be heard
- 47.7 Notice of disposition
- 47.8 Non-publication order
- 48 Suspension of member
- 49 Discipline hearings
- 50 Evidence at hearing before discipline hearing committee
- 51 Testimony of witnesses
- 52 Decision of discipline hearing committee
- 53 Assessors
- 54 Penalties
- 54.01 Discipline in another jurisdiction
- 54.1 Enforcement of pay of costs and fines
- 55 Conviction of indictable offence
- 55.1 Interview of members
- 55.2 Statements, etc., not to be used in evidence, exception
- 55.3 Production of books, records, etc.
- 56 Notice of hearing
- 57 Service of notice
- 58 Failure to appear
- 59 Investigating committee
- 60 Protection of college, etc.
- 61 Legal or other assistance

**PART VI
Appeals**

- 62 Right of appeal
- 63 Notice of appeal
- 64 Transcript of evidence
- 65 Record of proceedings
- 66 Appeal to Court of Appeal
- 67 Repealed
- 68 Repealed
- 69 Application for stay pending appeal
- 69.1 Protection of public

**PART VII
Rights, etc., *re* Medical Practitioners**

- 70 Repealed
- 71 Rights of registered practitioners
- 72 Repealed
- 73 Qualifications for appointment to the public service
- 74 Where medical certificate valid

**PART VIII
Offences
EVIDENCE**

- 75 Publication of list of persons registered
- 76 Evidence of registration
- 77 Onus of proof

OFFENCES

- 78 When physician not entitled to rights
- 79 Practising defined
- 80 Penalty for unlawfully practising
- 81 Limitation of prosecution

EXCEPTIONS

- 82 Non-application to certain situations
- 83 Non-application to powers granted under other Acts
- 84 Non-application of other Acts
- 85 Application of fines

	PART IX
	Miscellaneous
	RESTORATION OF LICENCE
86	Restoration of licence, permit
	PRACTICE ENHANCEMENT
	COMMITTEE RECORDS
86.1	Non-compellability re practice enhancement committee records
	RETURNS, REPORTS, ETC.
87	Returns
88	Filing of bylaws
89	Same

90	Review by Assembly
91	Record of revocation and notification
91.1	Annual report
92 to 96	Repealed
97	Repealed

	REPEAL
98	R.S.S. 1978, c.M-10 repealed
	Editorial Appendix (Amendments)

CHAPTER M-10.1

An Act respecting the Medical Profession

PART I

Title and Interpretation

SHORT TITLE

Short title

1 This Act may be cited as *The Medical Profession Act, 1981*.

INTERPRETATION

Interpretation

2 In this Act:

- (a) **Repealed.** 1989-90, c.43, s.3.
- (b) **“college”** means the College of Physicians and Surgeons of the Province of Saskatchewan continued under section 3;
- (b.1) **“corporate register”** means the corporate register kept pursuant to section 37.3;
- (c) **“council”** means the council of the college continued under section 5;
- (d) **“court”** means Her Majesty’s Court of Queen’s Bench for Saskatchewan;
- (e) **“dean”** means the Dean of Medicine of The University of Saskatchewan;
- (f) **“discipline committee”** means a discipline committee appointed under section 43;
- (f.1) **“discipline hearing committee”** means a committee as described in section 49;
- (g) **“education register”** means the education register described in section 34;
- (h) **“electoral division”** means an electoral division established pursuant to the bylaws;
- (i) **“member”** means a member of the college as described in section 4;
- (j) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (j.1) **“podiatric surgeon”** means a person registered pursuant to section 42.1;

(j.2) **“podiatric surgical register”** means the podiatric surgical register kept pursuant to section 42.2;

(k) **“practice”** means the practice of medicine, surgery or midwifery;

(k.1) **“practice of podiatric surgery”** means the portion of the practice consisting of the provision of the services that, pursuant to the bylaws, a podiatric surgeon is authorized to perform;

(l) **“preliminary inquiry committee”** means a preliminary inquiry committee appointed under section 44;

(l.1) **“record”** includes any information that is recorded or stored by means of any device, including a computer;

(l.01) **“professional corporation”** means a corporation described in subsection 37.1(1);

(m) **“register”** means the register described in section 27;

(n) **“registrar”** means the person appointed by the council as registrar under section 24, and includes a person designated by the council or the executive committee pursuant to subsection 24.1(2) to carry out the duties and exercise the powers of the registrar;

(o) **“temporary register”** means the register described in subsection 31(3).

1980-81, c.M-10.1, s.2; 1982-83, c.16, s.38;
1989-90, c.43, s.3; 1993, c.31, s.3; 2000, c.15,
s.3; 2002, c.21, s.3; 2004, c.60, s.3.

PART II College of Physicians and Surgeons COLLEGE

College continued

3 The College of Physicians and Surgeons of the Province of Saskatchewan is continued as a body corporate with the power to acquire, hold and dispose of any property for its corporate purposes.

1980-81, c.M-10.1, s.3.

Members of college

4 All persons who are members pursuant to *The Medical Profession Act* on the day before the coming into force of this section and any other persons who become members pursuant to section 28, 29 or 30 are members of the college.

1980-81, c.M-10.1, s.4.

COUNCIL

Council continued, composition

5(1) The council of the college is continued and consists of:

- (a) the number of members prescribed in the bylaws, which is not to be less than nine members, elected in accordance with this Act and the bylaws;
- (b) five persons appointed pursuant to section 9;
- (c) the dean or his designate pursuant to subsection (2); and
- (d) the immediate past president of the council, unless he has been elected as a member for one of the electoral divisions.

(2) The dean may designate:

- (a) the Associate Dean of Medicine of The University of Saskatchewan, if he is a member; or
- (b) an Assistant Dean of Medicine of The University of Saskatchewan, if he is a member;

to sit as a member of the council in his place, and, where a person, in his capacity as the dean, has sat as a member of the council for five consecutive years, he shall so designate a person to sit in his place, but no person shall sit as a member of the council under clause (1)(c) for more than five consecutive years.

(3) A vacancy in the membership of the council does not impair the power of the remaining members to act.

(4) **Repealed.** 2004, c.60, s.4.

1980-81, c.M-10.1, s.5; 2000, c.15, s.4; 2004, c.60, s.4.

Bylaws of the council

6(1) Subject to this Act, the council may make bylaws:

- (a) prescribing a seal for the college;
- (b) providing for the execution of documents of the college;
- (c) respecting banking and financial dealings of the college;
- (d) fixing the financial year of the college and providing for the audit of the accounts and transactions of the college;
- (e) prescribing the number of electoral divisions and governing the boundaries of those electoral divisions;
- (e.1) governing procedures for the election of members of council mentioned in clause 5(1)(a);
- (e.2) prescribing the number and terms of office of elected members of the council;

- (f) prescribing the procedure for the purpose of an inquiry held pursuant to section 20;
- (g) prescribing procedures for the electing of a president and vice-president of the college, the filling of a vacancy in those offices and prescribing the duties of the president and vice-president;
- (h) respecting the duties and authority of the registrar and any deputy registrars;
- (i) prescribing the duties of members of the council;
- (j) prescribing the organization, powers and procedures of the council and regulating the council in the performance of its duties;
- (k) respecting the holding and procedures of meetings of the council, executive committee and annual or special meetings of the members of the college;
- (l) establishing any committees that the council considers necessary and prescribing the manner of election or appointment of members to those committees and the duties of the committees;
- (m) prescribing remuneration and reimbursement for expenses for members of the council and committees;
- (n) respecting the management of the property of the college;
- (o) respecting procedures for the college to make, amend or revoke bylaws;
- (p) respecting the application of the funds of the college and the investment and reinvestment of any of its funds not immediately required for the purposes of the college and for the safekeeping of its securities;
- (q) prescribing forms for the purposes of this Act and providing for their use;
- (r) respecting membership of the college in a national organization with similar functions, the payment of an annual assessment for that membership and provision for representatives at meetings of the organization;
- (s) prescribing:
 - (i) the amounts of registration, licence, permit and other fees payable to the college;
 - (ii) the times of payment; and
 - (iii) the penalties for late payment;
- (t) respecting all of the things that are considered necessary for the attainment of the objects of the college and the efficient conduct of its affairs;

- (u) respecting the management and conduct of the affairs and well-being of the council and of the college for the purposes of safeguarding the public interest and carrying out the intent of this Act.
- (2) Subject to this Act, the council may make bylaws:
 - (a) prescribing the requirements, qualifications and procedures for:
 - (i) the registration of members, professional corporations and podiatric surgeons;
 - (ii) the issuing of licences, permits and memberships;
 - (b) prescribing classes of licences and permits and governing the requirements and qualifications for the issuing of licences and permits or any class or classes of licences or permits and prescribing the terms and conditions of them;
 - (b.1) delegating to another professional regulatory body approved by the minister the power to determine the matters set out in subsection 42.1(6) and imposing any terms that the council considers appropriate with respect to the delegation of that power;
 - (b.2) specifying the services that a podiatric surgeon is authorized to provide;
 - (c) establishing categories of membership in the college and prescribing the rights and privileges of each category;
 - (d) regulating, controlling and prohibiting the use of terms, titles or designations by persons registered under this Act, groups or associations of persons registered under this Act with respect to their practices;
 - (d.1) regulating, controlling and prohibiting the use of names by which professional corporations and partnerships involving professional corporations may be known;
 - (e) establishing categories of specialists in the various branches of medicine, prescribing the qualifications required, prescribing for the issuance of licences relating to specialist status, providing for the suspension or revocation of any such designation and for the regulation and prohibition of the use of terms, titles or designations by members indicating specialization in any branch of medicine;
 - (f) respecting the register, education register, temporary register, corporate register and podiatric surgical register;
 - (g) providing for the maintenance and inspection of registers of persons permitted to practise and for the issuance of certificates of standing by the registrar;
 - (h) providing for the standards to be met by persons wishing to write examinations set by the Medical Council of Canada;
 - (i) governing standards of practice for persons registered under this Act;

- (j) authorizing persons other than members to perform specified acts in the practice of medicine and determining whether those acts are to be under the direction or supervision of a member;
- (k) defining activities that constitute a conflict of interest and prohibiting practice where there is a conflict of interest;
- (k.1) governing advertising by professional corporations;
- (l) determining the relationship between the college and the Medical Council of Canada, and incorporating in the regulations any provision of the Canada Medical Act that is not contrary to this Act;
- (m) defining professional misconduct for the purposes of this Act;
- (n) prescribing the records that shall be kept by persons registered under this Act with respect to their practice;
- (n.1) prescribing the records that are to be kept by professional corporations and governing the access to those records by the council or any committee of the council;
- (o) prescribing the educational and training requirements to be undertaken by a person registered under this Act who has been out of active practice;
- (p) establishing a program for the assessment of the competency of persons registered under this Act;
- (p.1) setting standards for continuing education and the participation of members in continuing education;
- (p.2) setting requirements for maintenance of membership.
- (q) prescribing procedures for the operation of the council, a preliminary inquiry committee, competency committee, discipline committee, competency hearing committee, executive committee, special committee for the purpose of interviewing a physician or podiatric surgeon or any other committee established pursuant to this Act and prescribing the power to compel persons registered under this Act to appear before, and provide information to, the council or any of those committees;
- (q.1) for the purpose of clause 54(1)(i), defining 'costs of and incidental to the investigation and hearing' and determining the method of calculating those costs or any part of those costs;
- (r) respecting the reporting and publication of decisions and reports of the council and committees;
- (s) providing for the expiration of licences and permits and governing the requirements and qualifications for the issuing and renewal of licences and permits;
- (t) providing for the compilation of statistical information on the supply, distribution and professional activities of persons registered under this Act and requiring persons registered under this Act to provide the information necessary to compile the statistics;

- (u) respecting any matter ancillary to the provisions of this Act with respect to the issuing, suspending and revoking of licences or permits;
 - (v) generally, for the better carrying out of this Act.
- (3) Subject to this Act, the council shall make bylaws respecting and requiring professional liability protection for members and permit holders.

1989-90, c.43, s.4; 1991, c.6, s.3; 2000, c.15, s.5;
2002, c.21, s.4; 2004, c.60, s.5.

Meetings of council

- 7(1) The registrar shall, at least seven days prior to the date set for a meeting of the council, give notice of that meeting to the members of the council.
- (2) Where, in the opinion of the president or vice-president of the council, an emergency exists, the length of notice provided for in subsection (1) may be reduced to two days.
- (3) The council may make bylaws with respect to the holding of and the form of notice of its meetings and, in the absence of any bylaws, the president may call and hold the meetings in any manner that he considers advisable.
- (4) A majority of the members of the council constitutes a quorum.
- (5) The decision of a majority of the members of the council present at a meeting of the council is the decision of the council.

1980-81, c.M-10.1, s.7; 1989-90, c.54, s.4.

Remuneration to council, etc.

- 8 The council shall pay to each member of the council and each member of a committee of the council any remuneration and travelling expenses for attending meetings of the council and otherwise attending to the affairs of the college as it may, by resolution, determine.

1980-81, c.M-10.1, s.8.

APPOINTMENT OF MEMBERS OF COUNCIL

Public appointees

- 9(1) The Lieutenant Governor in Council may appoint five persons who reside in Saskatchewan as members of the council.
- (2) Where the Lieutenant Governor in Council appoints a person as a member of the council, the term of office of that person is not to exceed three years.
- (3) Subject to subsection (4), a member of the council appointed pursuant to this section holds office until that person's successor is appointed and is eligible for reappointment, but is not eligible to hold office for more than two consecutive terms.
- (4) A member of the council appointed pursuant to this section ceases to hold office if the person ceases to be a resident of Saskatchewan.

(5) A member of the council appointed pursuant to this section may exercise rights and serve as a member of committees to the same extent as other members of the council.

(6) The minister shall remunerate and reimburse for expenses the members of the council appointed pursuant to this section at the rate determined by the Lieutenant Governor in Council.

2000, c.15, s.6.

ELECTION OF MEMBERS TO COUNCIL

Procedure generally

10(1) The election of members to the council shall be held under the administration of the registrar.

(2) The council shall make bylaws:

- (a) respecting the times at which the election of a member for an electoral division is to be held;
- (b) prescribing the forms for nominations and ballots to be used in such elections; and
- (c) respecting any other matter or thing that it considers necessary for the conduct of the election of members to the council.

1980-81, c.M-10.1, s.10; 1989-90, c.54, s.4.

11 Repealed. 2004, c.60, s.6.

Eligibility to be elected; eligibility to vote

12 To be eligible to vote in an electoral division, or to be elected in an electoral division, in an election of council members, a person must be a member who:

- (a) is named in the register;
- (b) actually is engaged in practice in that electoral division;
- (c) is not under suspension; and
- (d) has fully paid the fees required by this Act at least seven weeks prior to the date of the election.

1980-81 c.M-10.1, s.12.

List of eligible members

13(1) At least six weeks prior to the date fixed for the election, the registrar shall cause to be delivered to each member entitled to vote a complete list of all members in that member's electoral division who are qualified for election and qualified to vote pursuant to section 12, together with a nomination paper.

(2) Where a member who meets the requirements set out in section 12 complains in writing to the registrar of the improper omission or insertion of any name on the list mentioned in subsection (1), the registrar shall immediately examine the complaint, rectify the error, if any, and forward his written decision to the complainant within three days from the date of receipt of the complaint.

(3) Where a member is dissatisfied with the decision of the registrar under subsection (2), he may appeal to a judge of the court in chambers at least 15 days prior to the date set for the election.

(4) The judge shall decide an appeal pursuant to subsection (3) in a summary way.

(5) The decision of the judge is final, and the registrar shall alter the list as necessary to give effect to that decision.

(6) A person who is otherwise entitled to vote in accordance with this Act but whose name is not included in the list pursuant to this section may, by affidavit, so inform the registrar and the registrar may determine the matter in any manner that he considers advisable.

1980-81, c.M-10.1, s.13.

Nomination procedure

14(1) Each member who is a candidate for election to the council shall be nominated in the form and manner prescribed by the council in the bylaws.

(2) Nomination papers, completed in accordance with the bylaws, shall be in the possession of the registrar at least four weeks before the date set for the election.

1980-81, c.M-10.1, s.14; 1989-90, c.54, s.4.

Procedure at election

15(1) The election of members to the council shall be by secret ballot and shall be held in accordance with the bylaws.

(2) For the purpose of every election of members to the council, the council shall appoint two members who have not been nominated for the election to act as scrutineers.

(3) Any person entitled to vote at an election of members to the council may be present at the opening of the voting papers.

1980-81, c.M-10.1, s.15; 1989-90, c.54, s.4.

Validity of ballots, etc.

16 The registrar shall determine all questions with respect to compliance with the rules of voting and the validity of ballots, but in arriving at his decision he shall take into consideration an objection to his decision of any member or scrutineer.

1980-81, c.M-10.1, s.16.

17 Repealed. 2004, c.60, s.7.

Equality of votes

18(1) Where, in respect of an election in an electoral division, there is an equality of votes between two or more candidates with the highest number of votes thereby leaving the election of a candidate undecided, the registrar shall:

- (a) declare the election to be invalid;
 - (b) fix the earliest practicable date for an election to be held in that electoral division; and
 - (c) at least three weeks prior to the date fixed for the election, without making a further call for nominations, cause to be delivered to each member entitled to vote at the election a ballot containing only the names of the candidates who had an equality of votes as a result of which the election of a candidate was not decided.
- (2) Subsections 13(1) and 14(1) do not apply to an election under this section.
- (3) In the case of an electoral division where two members are being elected at the same election, subsections (1) and (2) apply *mutatis mutandis* in the case of an equality of votes between two or more candidates with the second highest number of votes.

1980-81, c.M-10.1, s.18.

Disposition of voting papers

19 The registrar shall retain the voting papers returned at an election and all other papers relating to the election for a period of 18 months from the date of the election.

1980-81, c.M-10.1, s.19.

Contested election; petition

20(1) Where a member wishes to petition against the return of a member of the council, he shall, within 60 days from the date of the election:

- (a) file with the registrar a petition which states the grounds on which the election is disputed; and
 - (b) serve a copy of that petition on the member whose election is disputed;
- and the members of the council, other than the member who is the subject of the petition, may hold an inquiry to determine the legality of that election.
- (2) If, upon an inquiry under subsection (1), the council determines that the election is legal, the council shall designate that person to be elected, and, if the council determines that the election is illegal, the council shall order a new election.

1980-81, c.M-10.1, s.20.

New election

21 The registrar shall hold a new election to elect a member to council as soon as possible where:

- (a) the council so orders pursuant to section 20; or
- (b) with respect to a member who was elected, a vacancy occurs in the membership of the council due to death, resignation or otherwise.

1980-81, c.M-10.1, s.21.

PRESIDENT AND OFFICERS

Election of president, etc.

22(1) At the first meeting of the council in the year after the regular annual election of members to the council, the council shall elect a president and a vice-president of the council from among its members, and those persons hold office for a term of one year or until their successors are elected.

(2) The president of the council shall preside at all meetings of the council and has any other duties and powers that the council may prescribe in the bylaws.

(3) The vice-president of the council shall act in the place and stead of the president of the council during the absence of the president.

(4) Where the president and vice-president of the council are absent from a meeting of the council, another member of the council chosen by the members of the council present shall preside at the meeting.

1980-81, c.M-10.1, s.22; 1989-90, c.54, s.4.

Election of officers

23(1) Each year, at its first meeting after the regular annual election of members to the council, the council shall elect from among the members of the council a minimum of three members to constitute the executive committee.

(2) The president and vice-president of the council are *ex officio* members of the executive committee.

(3) A majority of the members of the executive committee constitutes a quorum.

(4) Each member of the executive committee holds office for one year or until his successor is elected.

(5) Meetings of the executive committee may be called at any time between meetings of the council by the registrar or the president of the council.

(5.1) The executive committee:

- (a) may exercise all of the powers; and
- (b) shall perform all the duties;

of the council with respect to any matters that the council may delegate to it or that in the opinion of the executive committee require immediate attention.

c. M-10.1**MEDICAL PROFESSION, 1981**

(5.2) The council, by bylaw, may authorize the executive committee:

- (a) to exercise any of the powers; and
- (b) to perform any of the duties;

of the council between meetings of the council.

(6) The executive committee shall report any action it takes pursuant to subsection (5.1) to the next ensuing meeting of the council, and its actions are valid until so reported at which time the council may deal with the matter as it considers advisable.

(7) The executive committee has no power to alter, repeal or suspend any bylaw of the council.

1980-81, c.M-10.1, s.23; 1989-90, c.43, s.5;
1989-90, c.54, s.4.

Registrar

24(1) The council shall appoint a member to be registrar, and he shall:

- (a) be the secretary for the council and for the executive committee; and
- (b) perform any duties and possess any powers that are assigned to him by this Act or by the council in the bylaws.

(2) The registrar shall:

- (a) keep the register, the education register, the temporary register, the corporate register and the podiatric surgical register in accordance with this Act and the orders and bylaws of the council;
- (b) make the necessary alterations in the addresses or qualifications of persons registered under this Act; and
- (c) perform any other duties that may be assigned to him by the council and this Act.

(3) **Repealed.** 2004, c.60, s.8.

1980-81, c.M-10.1, s.24; 1989-90, c.54, s.4; 2002,
c.21, s.5; 2004, c.60, s.8.

Deputy registrar

24.1(1) The council may appoint one or more members to be deputy registrars.

(2) The council or the executive committee may designate a deputy registrar or other member to carry out the duties and exercise the powers of the registrar if:

- (a) the office of registrar is vacant; or
- (b) the registrar is absent or unable to act.

2004, c.60, s.9.

Other officers and employees

25 The council may appoint any officers and engage any persons and employees that it considers necessary for the purposes of this Act.

2004, c.60, s.10.

Remuneration to officers and employees

26 The council shall pay to the registrar, to any deputy registrar and to the other officers and employees of the council any salaries and remuneration for travelling and other expenses that it may determine.

1980-81, c.M-10.1, s.26; 2004, c.60, s.11.

PART III
Registration, Licences, etc.
 REGISTRATION OF PHYSICIANS

Register

27(1) The registrar shall keep a register in which he shall enter the name of every person registered under sections 28 to 30, and only those persons:

- (a) whose names are entered in the register;
- (b) to whom a valid and subsisting licence has been issued in accordance with this Act; and
- (c) who are not under suspension by the council;

are members, and they are licensed to practise in the province in accordance with this Act.

(2) The register is to be kept at the head office of the college and is to be open for inspection by all persons, without fee, during normal office hours of the college.

1980-81, c.M-10.1, s.27; 2000, c.15, s.7.

Licence, registration

28(1) The council may register and issue a licence to a person who:

- (a) produces:
 - (i) a certificate under the hand of the Registrar of the Medical Council of Canada, stating that he is duly registered in the Canadian Medical Register pursuant to the *Canada Medical Act*, as amended from time to time;
 - (ii) **Repealed.** 1993, c.31, s.5.
 - (iii) **Repealed.** 1993, c.31, s.5.
- (b) proves to the satisfaction of the council that he is the person named in the certificate or documentation, as the case may be, required in clause (a);
- (c) is a graduate in medicine of a university approved by the council;

- (d) produces evidence, in a form and in a manner that may be prescribed by the council, of:
 - (i) satisfactory post-graduate training;
 - (ii) his good character to the satisfaction of the council; and
 - (iii) his good standing as a practitioner, if at any time he was entitled to practise; and
 - (e) pays to the registrar the fee prescribed by the council.
- (2) Notwithstanding subsection (1), the council may register and issue a licence to a person who:
- (a) produces a certificate under the hand of the Registrar of the Medical Council of Canada, stating that the person is duly registered in the Canadian Medical Register pursuant to the *Canada Medical Act*;
 - (b) proves to the satisfaction of the council that he or she is the person named in the certificate required in clause (a);
 - (c) produces evidence, in a form and in a manner that may be prescribed by the council, of:
 - (i) his or her good character to the satisfaction of the council;
 - (ii) his or her registration as a physician pursuant to the legislation of another jurisdiction in Canada; and
 - (iii) his or her good standing as a practitioner in another jurisdiction in Canada; and
 - (d) pays to the registrar the fee prescribed by the council.

1980-81, c.M-10.1, s.28; 1993, c.31, s.5; 2010, c.19, s.18.

Provisional licence, registration

29(1) The council may register and issue a provisional licence to a person who does not meet the requirements necessary for registration or for a licence pursuant to section 28, but who:

- (a) otherwise meets the requirements for registration that are prescribed in the bylaws; and
 - (b) pays the fee prescribed by the council.
- (2) A provisional licence issued pursuant to subsection (1) authorizes the person named in the licence to practise:
- (a) subject to any restrictions that are imposed by the council in the licence; and
 - (b) subject to any restrictions contained in the bylaws.

1995, c.12, s.3.

Special licence, registration

30(1) The council may register and issue a special licence to a physician where it is established to the satisfaction of the council that the physician is to confine his practice to a speciality of medicine or surgery in which he is fully qualified and where he complies with any other requirements in that respect that are prescribed by the bylaws of the council and who pays the fee prescribed for the purpose by the council.

(2) At the request of the minister, the council shall register and issue a special licence to a physician who:

- (a) is a graduate in medicine of a university approved by the council;
- (b) holds a specialty qualification in psychiatry that is recognized by the council;
- (c) is to be engaged as a psychiatrist:
 - (i) in a branch of the public service of Saskatchewan;
 - (ii) in a branch of the public service of Canada to provide services in Saskatchewan; or
 - (iii) by a regional health authority;
- (d) complies with any other requirements in that respect that are prescribed by the bylaws of the council and who pays the fee prescribed for the purpose by the council.

(3) At the request of the minister, the council shall register and issue a special licence to a physician who:

- (a) is a graduate in medicine of a university approved by the council;
- (b) is to be engaged:
 - (i) in a branch of the public service of Saskatchewan;
 - (ii) in a hospital or other institution; or
 - (iii) as a medical health officer for a regional health authority;
- (c) complies with any other requirements in that respect that are prescribed by the bylaws of the council and who pays the fee prescribed for the purpose by the council.

(4) The council shall revoke a licence issued pursuant to this section where the physician:

- (a) ceases to restrict his practice to the speciality for which he was licensed; or
- (b) fails to meet the terms and conditions on the basis of which he is licensed;

and the registrar shall strike his name from the register.

1980-81, c.M-10.1, s.30; 1989-90, c.43, s.7; 1995, c.12, s.4; 2000, c.15, s.8; 2002, c.R-8.2, s.84 and c.21, s.6; 2003, c.29, s.73.

Restrictions on certain licences

30.1 Where the council, on reasonable grounds, is of the opinion that a licence under section 28, 29 or 30 or a permit under section 31 should be restricted, the council may issue a licence or permit to that person:

- (a) restricting the right of that person to practise any branch of medicine, surgery or midwifery;
- (b) restricting the right of that person to perform any medical procedure or any medical treatment or surgery of any kind; or
- (c) prohibiting that person from providing any services or procedures except under the supervision of a duly qualified medical practitioner approved by council.

1989-90, c.43, s.8; 1991, c.6, s.4.

Temporary registration

31(1) The council may issue a locum tenens permit to a physician who meets the requirements in that respect that are prescribed by the bylaws of the council and who pays the fee prescribed for the purpose by the council.

(2) A permit issued pursuant to subsection (1) authorizes the person named in the permit to practise in accordance with the bylaws of the council.

(3) The registrar shall keep a temporary register in which he shall enter the name of every person to whom a locum tenens permit has been issued under subsection (1).

1980-81, c.M-10.1, s.31; 1989-90, c.43, s.9; 1991, c.6, s.5.

Delegation to registrar

31.1(1) The council may delegate to the registrar the power to do any of the following:

- (a) register persons as members of the college;
- (b) issue licences to members;
- (c) register professional corporations;
- (d) issue permits to physicians or professional corporations;
- (d.1) register and issue permits to podiatric surgeons;
- (e) revoke a permit issued to a professional corporation.

(2) Where a power is delegated pursuant to this section, the exercise of that power by the registrar is deemed to be an exercise of the power by the council.

(3) The council may impose any terms and conditions that it considers appropriate on a delegation of its powers.

(4) A person who is aggrieved by a decision of the registrar made pursuant to a delegated power may apply to the council to review that decision.

(5) On a review pursuant to subsection (4), the council shall hear the review and may:

- (a) direct the registrar to exercise the power in a manner that the council considers appropriate; or
- (b) confirm the registrar's decision.

(6) On a review pursuant to subsection (4), the person aggrieved by the decision of the registrar has the right to appear in person before the council in support of the application.

(7) The council shall cause the applicant to be informed in writing of its decision regarding the review.

2000, c.15, s.9; 2002, c.21, s.7.

Vesting of certain powers in event of emergency

32 The Lieutenant Governor in Council may declare an emergency to exist and may order that the powers vested in the council under sections 28 to 31 be vested in the minister where the Lieutenant Governor in Council is of the opinion that:

- (a) members have withdrawn their services;
- (b) the safety of the residents of the province is being threatened; and
- (c) the council is not adequately discharging its responsibilities under this Act.

1980-81, c.M-10.1, s.32.

Appeal

33 Where a person applies for registration under section 28, 29, 30 or 42.1 and:

- (a) his or her application is rejected;
- (b) his or her licence or permit is issued subject to any restriction or prohibition; or
- (c) the council has not notified him or her of a decision with respect to his or her application within 90 days of the receipt by the registrar of evidence of the person's satisfactory qualifications;

the person may appeal to the court and sections 62 to 66 apply, with any necessary modification, to the appeal.

1989-90, c.43, s.10; 2002, c.21, s.8.

REGISTRATION OF PERSONS IN TRAINING

Registration in education register

34 The registrar shall keep an education register in which he shall enter the name of every person:

- (a) who is:
 - (i) an undergraduate student in the College of Medicine of The University of Saskatchewan and has been recommended for registration in the education register by the dean;
 - (ii) an undergraduate student at any other College of Medicine approved by the council for the purpose of this section and has been recommended for registration in the education register by the Dean of that College; or
 - (iii) a graduate in medicine from a university or other institution approved by the council for the purpose of this section;

and who proves that he is the person named in any documentation submitted for the purposes of this clause;

- (b) who pays the registration fee prescribed by the council; and
- (c) who proves to the satisfaction of the council that he is of good character.

1980-81, c.M-10.1, s.34.

Rights of persons named in education register

35(1) An undergraduate student whose name is entered in the education register may provide medical services in a hospital, office or other premises in the province approved for the purpose by the council in consultation with the dean.

(2) A graduate in medicine whose name is entered in the education register may be:

- (a) appointed as an intern or resident; or
- (b) engaged in post-graduate training or undergoing assessment;

in any hospital, office or other premises in the province approved for the purpose by the council in consultation with the dean.

(3) No person shall practise as an intern or a resident in any hospital, office or other premises in the province unless his name is entered in the education register or unless he is a duly qualified medical practitioner.

(4) The registrar shall strike the name of a person from the education register:

- (a) in the case of a person appointed as an intern or resident:
 - (i) on completion of the term of the appointment; or
 - (ii) on termination of the appointment; or
- (b) in the case of a person engaged in post-graduate training or undergoing assessment:
 - (i) on completion of the training or the assessment; or
 - (ii) on discontinuance of the training or the assessment.

(5) A person whose name is entered in the education register pursuant to subsection (2) may practise in accordance with this Act and with the orders and bylaws of the council.

(6) No undergraduate medical student shall provide services in a hospital, office or other premises in the province approved for the purpose by the council unless his name has been entered in the education register as a medical student.

(7) Where the name of an undergraduate medical student has been entered in the education register and he ceases to be a medical student, the registrar shall strike his name from the education register.

(8) A person whose name is entered in the education register as an undergraduate medical student is subject to the orders and bylaws of the council and may practise only in a hospital, office or other premises approved for the purpose by the council and only under any supervision and direction that may be determined by the dean, and he is subject to any further limitations and restrictions that may be prescribed by the dean with respect to such practice in connection with the year of study being taken as a medical student.

(9) No person whose name is entered in the education register, unless he or she is a physician or otherwise duly qualified, shall:

(a) sign a document that requires the signature of a duly qualified medical practitioner; or

(b) prescribe a narcotic as defined by the *Narcotic Control Act* (Canada), as amended from time to time, or a controlled drug as defined by Part III of the *Food and Drugs Act* (Canada), as amended from time to time.

(10) For the purposes of this section, “**assessment**” means an evaluation of the knowledge, skills and abilities of a graduate in medicine mentioned in subclause 34(a)(iii).

1980-81, c.M-10.1, s.35; 1989-90, c.43, s.11;
1989-90, c.54, s.4; 2004, c.60, s.12.

Removal of name improperly registered

36 The council may direct the registrar to strike the name of a person who is improperly registered from the register, the education register, the temporary register, the corporate register or the podiatric surgical register, and the registrar shall so strike that name.

1980-81, c.M-10.1, s.36; 2002, c.21, s.9.

37 Repealed. 2002, c.21, s.10.

PART III.1

Professional Corporations

Professional corporation

37.1(1) One or more members may incorporate a corporation pursuant to *The Business Corporations Act* for the purpose of carrying on practice in the name of the corporation.

(2) The words “Professional Corporation” or the abbreviation “Prof. Corp.” or “P.C.” must be part of the name of a professional corporation and the name must appropriately depict, in accordance with the bylaws, that the professional corporation is engaged in practice.

(3) No owner of voting shares of a professional corporation shall pledge or enter into a voting trust agreement or proxy or any other type of agreement that vests in a person who is not a member the authority to exercise the voting rights attached to any or all of the owner’s shares.

2000, c.15, s.10; 2002, c.21, s.11.

Restrictions on practising in name of corporation

37.2(1) No person shall carry on, purport to carry on or advertise the carrying on of practice by, through or in the name of a professional corporation unless:

- (a) the professional corporation is registered and holds a valid permit pursuant to section 37.4;
 - (b) subject to subsection (2), all of the issued voting shares of the professional corporation are legally and beneficially owned by one or more members;
 - (c) subject to subsection (2), all of the issued non-voting shares of the professional corporation are legally and beneficially owned by:
 - (i) members;
 - (ii) spouses, children or parents of members who own voting shares;
 - (iii) a corporation incorporated pursuant to *The Business Corporations Act*, all of the shares of which are owned by individuals mentioned in subclause (i) or (ii); or
 - (iv) a trust, all of the beneficiaries of which are individuals mentioned in subclause (i) or (ii);
 - (d) all of the directors of the professional corporation are members; and
 - (e) all persons who carry on practice by, through or in the name of the professional corporation are registered under this Act.
- (2) The voting and non-voting shares of a professional corporation may be vested in:
- (a) an executor or administrator of the estate of a shareholder, for the limited purpose of permitting the executor or administrator to discharge his or her duties in relation to the administration of the estate; or
 - (b) a trustee in bankruptcy, for the limited purpose of permitting the trustee to discharge his or her duties as trustee in bankruptcy of the estate of a shareholder or the professional corporation.

2000, c.15, s.10; 2002, c.21, s.12.

Corporate register

37.3(1) The registrar shall keep a register to be called the corporate register.

(2) The registrar shall enter in the corporate register the name and address of each professional corporation that is registered by the council pursuant to section 37.4 and the name and address of each director of each professional corporation that is registered.

(3) The corporate register is to be kept at the head office of the college and is to be open for inspection by all persons, without fee, during normal office hours of the college.

2000, c.15, s.10.

Registration, permit

37.4(1) The council may register and issue a permit to a professional corporation that:

- (a) applies in the form prescribed by the council;
 - (b) pays the fees prescribed for the purpose by the council; and
 - (c) satisfies the council that:
 - (i) the professional corporation:
 - (A) is a corporation in good standing pursuant to *The Business Corporations Act*;
 - (B) meets the requirements of this Part; and
 - (C) meets the requirements of the bylaws;
 - (ii) each person who carries on practice by, through or in the name of the professional corporation holds liability insurance that meets the requirements of the bylaws; and
 - (iii) the articles of the professional corporation do not prevent it from carrying on all business and activities associated with practice.
- (2) A professional corporation shall not be registered pursuant to any other provision of this Act.
- (3) A permit issued pursuant to subsection (1) may contain any terms and conditions that the council considers appropriate.
- (4) Subject to section 37.5, a permit expires on December 31 of the year for which it is issued.
- (5) The council may renew a permit issued to a professional corporation that applies in the form prescribed by the council and pays the prescribed fees, if the council is satisfied that the professional corporation continues to meet the requirements set out in clause (1)(c).
- (6) Where an application for renewal of a permit is refused, the registrar shall send notice of that fact to the professional corporation and to the minister.

2000, c.15, s.10; 2002, c.21, s.13.

Revocation of permit

37.5(1) The council may revoke a permit issued to a professional corporation where the professional corporation:

- (a) does not meet one or more of the requirements set out in clause 37.4(1)(c);
- (b) fails to comply with a term or condition set out in the permit; or
- (c) is convicted of an offence described in section 55.

(2) The council shall revoke a permit issued to a professional corporation where only one member carries on practice in the name of the professional corporation, and:

- (a) the member dies or becomes incompetent; or
- (b) the member's licence is suspended or revoked pursuant to this Act.

(3) Where a permit is revoked, the registrar shall send notice of that fact to the professional corporation and to the minister.

(4) Where a permit issued to a professional corporation is revoked, the registrar shall strike the name of the professional corporation from the corporate register.

2000, c.15, s.10; 2002, c.21, s.14.

Discipline

37.6(1) If the subject of a complaint, investigation or inquiry is the conduct of a person registered under this Act through whom a professional corporation was carrying on practice when the conduct occurred:

- (a) any power of inspection, investigation or inquiry that may be exercised with respect to the person or the person's records may be exercised with respect to the professional corporation or the professional corporation's records; and
- (b) the professional corporation and its shareholders are jointly and severally liable for all fines and costs that the person is ordered to pay.

(2) The shareholders, directors, officers and employees of a professional corporation are compellable to give evidence in any proceeding pursuant to Part V.

2000, c.15, s.10; 2002, c.21, s.15.

Appeal

37.7(1) A professional corporation may, in accordance with this section, appeal a decision of the council to the court where:

- (a) the application of the professional corporation for registration, for a permit or for renewal of a permit is rejected;
- (b) the permit of the professional corporation is issued subject to terms and conditions; or
- (c) the permit of the professional corporation is revoked.

(2) An appeal pursuant to subsection (1) must be commenced within 60 days after the date of the decision by a notice of appeal setting out the grounds of the appeal, a copy of which is to be served on the registrar.

(3) On hearing an appeal pursuant to subsection (1), the court may:

- (a) confirm or vary the decision of the council or substitute its own decision for that of the council; and
- (b) make any order as to costs that it considers appropriate.

2000, c.15, s.10.

Application of Act

37.8(1) The relationship of a person registered under this Act to a professional corporation does not affect the application of this Act or the bylaws to the person.

(2) The liability of a person registered under this Act to a patient who receives services from the person is not affected by the fact that services were provided to the patient by the person as an employee of, or on behalf of, a professional corporation.

2002, c.21, s.16.

Patient relations

37.9(1) Nothing in this Part affects any law applicable to the confidential, ethical or fiduciary relationships between a person registered under this Act and a patient who receives services from the person.

(2) The relationship between a professional corporation and a patient who receives services from the professional corporation is subject to all applicable laws relating to the confidential, ethical and fiduciary relationships between the person registered under this Act who provides the services in the name of the professional corporation and the patient.

(3) All rights and obligations pertaining to communications made to, or information received by, a person registered under this Act apply to the shareholders, directors, officers and employees of a professional corporation.

2002, c.21, s.16.

PART IV

Fees

38 Repealed. 1989-90, c.43, s.13.

39 Repealed. 1989-90, c.43, s.13.

40 Repealed. 1995, c.12, s.5.

Inactive member

41(1) The registrar shall make a notation in the register beside the name of every inactive member but on payment by an inactive member of the fee fixed by the council and if the inactive member meets the conditions prescribed by the council in the bylaws, the registrar may remove the notation with respect to that member's name.

(2) An inactive member is deemed to be registered for purposes of membership in the college, but he has no right to practise, to vote or to hold office.

1980-81, c.M-10.1, s.41; 1993, c.31, s.6.

Annual certificate

42 The registrar shall issue annually to each member a certificate under the seal of the college indicating his status as a member.

1980-81, c.M-10.1, s.42.

PART IV.1**Registration of Podiatric Surgeons****Podiatric surgeon permits**

42.1(1) The council may register and issue a podiatric surgeon permit to a person who:

- (a) produces evidence that he or she has successfully completed a podiatric surgeon education program recognized by the council;
 - (b) produces evidence that he or she has successfully completed any postgraduate training and examinations required by the bylaws;
 - (c) meets all requirements of the bylaws respecting registration as a podiatric surgeon; and
 - (d) pays the fees prescribed for the purpose by the council.
- (2) The council may register and issue a provisional podiatric surgeon permit to a person who does not meet a requirement set out in clause (1)(a) or (b) but who:
- (a) otherwise meets the requirements of the bylaws respecting registration as a podiatric surgeon; and
 - (b) pays the fees prescribed for the purpose by the council.
- (3) The council may set out any restrictions that it considers appropriate in a permit issued pursuant to subsection (1) or (2).
- (4) A permit issued pursuant to subsection (1) or (2) authorizes the person named in the permit to practise podiatric surgery in accordance with the bylaws and any restrictions set out in the permit.
- (5) A person who is registered only pursuant to this section:
- (a) is not a member of the college; and
 - (b) is restricted to the practice of podiatric surgery.
- (6) The council may, by bylaw, delegate to another professional regulatory body approved by the minister the power to determine any or all of the following matters:
- (a) whether a person meets the criteria for registration as a podiatric surgeon;
 - (b) whether a person should be issued a permit to practise podiatric surgery;
 - (c) whether any restrictions should be placed on a person's permit to practise podiatric surgery and the nature of those restrictions.

(7) Where a power is delegated pursuant to subsection (6), the exercise of the power by the other professional regulatory body is deemed to be an exercise of the power by the council.

(8) The council may enter into agreements with other professional regulatory bodies for the purposes of this section.

2002, c.21, s.17.

Podiatric surgical register

42.2(1) The registrar shall keep a register to be called the podiatric surgical register in which the registrar shall enter the name of each person registered pursuant to section 42.1.

(2) The podiatric surgical register is to be kept at the head office of the college and is to be open for inspection by all persons, without fee, during normal office hours of the college.

2002, c.21, s.17.

Protection of title

42.3(1) Subject to subsection (2), no person other than a person registered pursuant to section 42.1 shall use the title “podiatric surgeon” or “podiatrist” or any word, title or designation, abbreviated or otherwise, to imply that the person is registered pursuant to section 42.1.

(2) A podiatrist who is registered pursuant to *The Podiatry Act* may use the title “podiatrist”.

2002, c.21, s.17; 2003, c.P-14.1, s.54.

Practice not limited

42.4 Nothing in this Part limits the scope of practice of a person registered pursuant to any provision of this Act other than section 42.1.

2002, c.21, s.17.

PART V
Discipline

Interpretation of Part

42.5 In this Part, “**person registered under this Act**” includes a person who formerly was registered under this Act.

2002, c.21, s.18.

Limitation period

42.6 No proceedings pursuant to this Part shall be commenced against a person formerly registered under this Act:

- (a) with respect to an allegation received by the council pursuant to section 43.1 with respect to the person, unless the allegation is received by the council within two years after the day on which the person ceased to be registered under this Act; or
- (b) with respect to any conduct of the person that is or may be unbecoming, improper, unprofessional or discreditable or that may display a lack of skill and knowledge to practise, unless the council becomes aware of that conduct within two years after the day on which the person ceased to be registered under this Act.

2002, c.21, s.18.

Appointment of discipline committee

43(1) The council shall appoint a discipline committee consisting of any members or persons that the council considers advisable, and the council may make bylaws respecting the composition and operation of the discipline committee and respecting any other matters necessary for the purposes of the discipline committee.

(2) The discipline committee may, subject to this Act and the bylaws, regulate its own business and manner of proceeding.

1980-81, c.M-10.1, s.43; 1989-90, c.54, s.4.

Investigation of allegations

43.1(1) Where the council receives an allegation in writing that a person registered under this Act:

- (a) lacks the skill and knowledge to practise; or
- (b) is guilty of unbecoming, improper, unprofessional or discreditable conduct;

the college shall investigate the allegation.

(2) The college shall inform a person making an allegation mentioned in subsection (1) of the disposition made by the college of the allegation.

1989-90, c.43, s.15; 2002, c.21, s.19.

Appointment of preliminary inquiry committee

44(1) The council may appoint preliminary inquiry committees consisting of a physician or two or more persons, at least one of whom is a physician, and may make bylaws respecting the size, composition and operation of such a committee, but no member of the discipline committee shall be a member of a preliminary inquiry committee.

(2) A preliminary inquiry committee may, subject to this Act and the bylaws, regulate its own business and manner of proceeding.

1980-81, c.M-10.1, s.44; 1989-90, c.43, s.16;
1989-90, c.54, s.4.

Competency committee

45(1) Subject to subsection (1.1), where the council or executive committee has reasonable grounds to believe that a person registered under this Act may not have adequate skill and knowledge to practise, the council or the executive committee may appoint one or more members, or persons licensed to practise medicine in a jurisdiction other than Saskatchewan, to constitute a competency committee for the purpose of investigating whether that person does have adequate skill and knowledge to practise.

(1.1) Where subsection (1) applies to a person registered pursuant to section 42.1, the council or the executive committee may appoint one or more persons that the council or executive committee considers appropriate to constitute a competency committee.

(2) A competency committee may require the person under investigation to undergo, in any manner that it considers advisable:

- (a) a medical examination to determine the state of his or her health;
- (b) an examination of his or her professional competence; or
- (c) a demonstration of technical skills.

(3) Where a person, on reasonable notice, fails to appear before a competency committee, the council may suspend that person from practice for any period that it considers appropriate and, on suspending the person, may refer the matter to the discipline committee.

(4) Where:

- (a) the council;
- (b) the executive committee; or
- (c) the competency committee;

is of the opinion that, on the basis of the nature of the case, a person who is under investigation should be:

(d) suspended until the outcome of a hearing held pursuant to subsection (6), it may temporarily suspend that person from practice for a maximum period of 90 days; or

(e) prohibited from performing any medical procedure or any medical treatment or surgery of any kind until the outcome of a hearing held pursuant to subsection (6), it may prohibit that person from:

- (i) practising any branch of medicine, surgery, midwifery or podiatric surgery; and
- (ii) performing any medical procedure or any medical treatment or surgery of any kind;

for a maximum period of 90 days.

(5) On completion of its investigation, a competency committee shall promptly submit a written report of that investigation to the council.

(6) After consideration of a report mentioned in subsection (5) the council or the executive committee may direct a competency hearing committee to conduct a hearing into the matter or may refer the matter to the discipline committee.

(7) The council or executive committee, on a direction that a competency hearing committee conduct a hearing, shall appoint from among the members of the council a competency hearing committee consisting of not less than three members of the council.

(8) The competency hearing committee shall determine whether the person who is the subject of the hearing has adequate skill and knowledge to practise as authorized pursuant to this Act.

(9) The competency hearing committee shall submit to the council a written report of its decision, signed by the concurring members of the competency hearing committee in the decision, and the competency hearing committee may make any recommendations that it considers advisable.

(10) Where the competency hearing committee determines that a person registered under this Act does not have adequate skill and knowledge to practise as authorized pursuant to this Act, it may:

- (a) temporarily suspend that person from practice; or
- (b) prohibit that person from:
 - (i) practising any branch of medicine, surgery, midwifery or podiatric surgery; and
 - (ii) performing any medical procedure or any medical treatment or surgery of any kind;

until the council has acted on the decision of the competency hearing committee under subsection (12).

(11) The members of the competency hearing committee may vote at council as members of the council when the council acts on the decision of the competency hearing committee.

(12) Where the competency hearing committee decides that the person who was under investigation does not have adequate skill and knowledge to practise, the council may do one or more of the following:

- (a) order that:
 - (i) the name of the person be struck from the register, the education register, the temporary register or the podiatric surgical register; and
 - (ii) the licence or permit of the person be revoked, and attach any conditions to the restoration of the name of the person to the register, the education register, the temporary register or the podiatric surgical register that the council considers proper;

- (b) suspend the privileges of the person as a duly qualified medical practitioner or as a podiatric surgeon, as the case may be, under this Act and impose any conditions that the council considers proper to be met by the person before those privileges may be restored;
 - (c) prohibit the person, for any period of time that the council may determine, from:
 - (i) practising any branch of medicine, surgery, midwifery or podiatric surgery; or
 - (ii) performing any medical procedure or any medical treatment or surgery of any kind;
 - (d) require the person to provide any services or procedures only under the supervision of a duly qualified medical practitioner or by a podiatric surgeon approved by the council;
 - (e) require the person to undertake any upgrading, retraining, education or treatment that the council may specify and provide for the suspension of the privileges of the person as a duly qualified medical practitioner or as a podiatric surgeon, as the case may be, if the person should fail to obtain the upgrading, retraining, education or treatment;
 - (f) provide for any further assessment of the skills and knowledge of the person at any future time as the council may determine;
 - (g) direct that the costs of and incidental to the investigation and hearing, including fees payable to solicitors, council and witnesses, or any part of those costs, shall be paid by the person.
- (13) Where the council directs that a person is to pay any costs, those costs are a debt due to the college insofar as they were borne in the first instance by the college and the council may require payment of those costs as a condition of maintaining or restoring the licence or permit of the person.
- (14) The competency hearing committee shall give the person who is under investigation notice of the hearing to be held pursuant to this section in the manner set out in clause 57(3)(a) or (b) and shall serve on the person a copy of the report of the competency committee and that person has a right to be heard at that hearing.
- (15) A person who is the subject of a hearing under this section may appeal from the decision on the hearing, and sections 62 to 66 apply, with any necessary modification, to the appeal.

Charges

46 Without in any way restricting the generality of “unbecoming, improper, unprofessional or discreditable conduct”, a person whose name is entered on the register, the education register, the temporary register or the podiatric surgical register is guilty of unbecoming, improper, unprofessional or discreditable conduct, where he:

- (a) wilfully betrays a professional secret;
- (b) abandons a patient in danger without cause and without giving him an opportunity to engage the services of another person registered under this Act;
- (c) knowingly gives a false certificate respecting birth, death, notice of disease or otherwise or respecting any matter relating to life insurance, health insurance or any other insurance;
- (d) divides with another member, who is not a partner, any fees or moneys accruing to him as a medical practitioner without the patient’s knowledge and consent;
- (e) is addicted to the excessive use of intoxicating liquors or the excessive or habitual use of opiates, narcotics or habit-forming drugs;
- (f) impersonates another person registered under this Act;
- (g) employs in connection with his professional practice an assistant who is not registered under this Act or any other Act entitling him to provide services to the sick or injured or permits any such unregistered person:
 - (i) to attend or treat patients or to perform operations on patients with respect to matters requiring professional discretion or skill; or
 - (ii) by his presence or advice, assistance or co-operation, whether acting as an assistant or otherwise, to attend or treat any person for any ailment or to perform any operation on a patient with respect to any matter requiring professional discretion or skill;

or who holds out any such unregistered person as a person qualified to practise in Saskatchewan;

- (h) fails, after being served with a notice pursuant to this Act, to appear before the council, the discipline hearing committee, a preliminary inquiry committee, a competency committee, a competency hearing committee or a special committee appointed by the council for the purpose of interviewing him;
- (i) performs for a patient a professional service that is not justifiable on any reasonable grounds;
- (j) provides any professional service that, in the opinion of the discipline hearing committee, is in volume or, in relation to other professional services provided by him, not justifiable on any reasonable grounds;

- (k) charges a fee or causes a fee to be charged for a service that he has not rendered;
- (l) makes or permits false or misleading statements to be made in an account for payment for services rendered by him when he knew, or when under the circumstances it was reasonable to conclude that he knew, that the statements were false or misleading;
- (m) violates any of the terms and conditions imposed by the council under this Act in connection with his practice;
- (n) prescribes drugs for other than medical or therapeutic purposes; or
- (o) does or fails to do any act or thing where the discipline hearing committee considers that action or failure to be unbecoming, improper, unprofessional or discreditable;
- (p) does or fails to do any act or thing where the council has, by bylaw, defined that act or failure to be unbecoming, improper, unprofessional or discreditable.

1980-81, c.M-10.1, s.46; 1989-90, c.43, s.18;
1993, c.31, s.7; 2002, c.21, s.21.

Preliminary inquiry committee

47(1) Where the council or the executive committee has reasonable grounds to believe that a person registered under this Act may be guilty of unbecoming, improper, unprofessional or discreditable conduct, the council or the executive committee may appoint a preliminary inquiry committee for the purpose of investigating whether the person may be guilty of unbecoming, improper, unprofessional or discreditable conduct.

(2) Where a person registered under this Act requests an investigation pursuant to subsection (1), the council may require the person to post a bond or security for costs, and that bond or security is forfeited to the college if the committee finds the allegations of the person to be frivolous or vexatious.

(3) A preliminary inquiry committee may take any steps that it considers proper and may summon any person who is under investigation and any other person whose information may be relevant to the investigation.

(3.1) On application and payment of the appropriate fee, the local registrar of the court at any judicial centre shall issue writs of *subpoena ad testificandum* or *subpoena duces tecum* to:

- (a) a member of the preliminary inquiry committee;
- (b) counsel acting for the preliminary inquiry committee.

(3.2) Where a writ issued pursuant to subsection (3.1) is disobeyed, the proceedings and penalties are those applicable in civil cases in the court.

(3.3) Where any book, paper, document or thing is produced to the preliminary inquiry committee, the committee may authorize any person to copy or make extracts from the book, paper, document or thing.

- (4) A preliminary inquiry committee, or a member of it, may:
- (a) inquire into and examine the practice of the person with respect to whom the investigation is being made; and
 - (b) on production of a court order issued pursuant to subsection 6, or with the consent of the person, enter the business premises of the person and examine books, records, documents and things relevant to the matter of the investigation.
- (5) No person shall obstruct the preliminary inquiry committee or a member of it making an investigation under this section or withhold from it or the member or conceal, alter or destroy any books, records, documents or things relevant to the matter being investigated.
- (6) Where a judge of the Provincial Court of Saskatchewan is satisfied, on an *ex parte* application by the preliminary inquiry committee making an investigation under this section, that:
- (a) the investigation has been directed pursuant to subsection (1); and
 - (b) there are reasonable grounds for believing that there is in any building, dwelling, receptacle, premises or place any book, record, document or thing relating to the person whose affairs are being investigated and to the matter of the investigation;
- the judge, whether or not the consent of the person has been sought, may issue an order authorizing a person making the investigation, together with any peace officer as he or she calls on to assist the person, to enter and search, if necessary, by force, any building, dwelling, receptacle, premises or place for any books, records, documents or things and to examine them.
- (7) Every entry and search pursuant to subsection (6) shall be made between sunrise and sunset unless the judge who issued the order authorizing the entry and search authorized entry and search at any time other than between sunrise and sunset.

1989-90, c.43, s.19; 1995, c.12, s.6; 2002, c.21, s.22.

Authorization for entry and search

47.1(1) The council or the executive committee may authorize an *ex parte* application to be made by any person to a judge of the Provincial Court of Saskatchewan and the judge, if satisfied that there are reasonable grounds for believing that there is in any building, dwelling, receptacle, premises or place any book, record, document or thing that will afford evidence:

- (a) of a contravention of section 80; or
- (b) that a person registered under this Act is guilty of unbecoming, improper, unprofessional or discreditable conduct;

may issue an order authorizing a person named in it, together with any peace officer as the person calls on to assist the person, to enter and search, if necessary, by force, any building, dwelling, receptacle, premises or place for any books, records, documents or things and to examine them.

(2) Every entry and search pursuant to subsection (1) shall be made between sunrise and sunset unless the judge who issued the order authorizing the entry and search authorized entry and search at any time other than between sunset and sunrise.

1989-90, c.43, s.19; 2002, c.21, s.23.

Requirements of search

47.2(1) The preliminary inquiry committee or the member of it making an inquiry pursuant to section 47 and any person authorized pursuant to section 47 or 47.1 to conduct an entry and search, on giving a receipt for the books, records, documents or things, may remove any books, records, documents or things examined by the person for the purpose of making copies or extracts of those books, records, documents or things.

(2) Any person who removes any books, records, documents or things pursuant to subsection (1) for the purpose of copying or making extracts from them shall proceed with reasonable dispatch to carry out the copying or making of extracts and, subject to subsection (3), shall promptly return the books, records, documents or things in reasonably the same condition after copying them or taking extracts from them to the person who produced or furnished them or from where they were removed.

(3) Books, records, documents or things returned pursuant to subsection (2) shall be returned to:

- (a) the place from which they were removed; or
- (b) any other place that may be agreed to by the person who produced or furnished them and the person who removed them.

1989-90, c.43, s.19.

Copy of books, etc., as evidence

47.3 A copy or extract of any book, record, document or thing certified by:

- (a) a member of the preliminary inquiry committee; or
- (b) a person authorized pursuant to section 47 or 47.1 to conduct the entry or search;

who made the copy or extract pursuant to subsection 47(3) or 47.2(2) is admissible in evidence in any action, proceeding or prosecution as *prima facie* evidence of the original book, record, document or thing and its contents.

1989-90, c.43, s.19; 1995, c.12, s.7.

Report of investigation

47.4 The preliminary inquiry committee or the member of it making an investigation pursuant to section 47, on completion of the investigation, shall submit a written report of the investigation to the council or the executive committee.

1989-90, c.43, s.19; 1993, c.31, s.8.

c. M-10.1**MEDICAL PROFESSION, 1981****Action by council in report**

47.5 After the council or the executive committee has considered a report submitted pursuant to section 47.4, the council or the executive committee may:

- (a) appoint a competency committee pursuant to section 45 to proceed pursuant to that section with respect to; or
- (b) lay before the discipline committee a charge against;

the person to whom the report relates.

1989-90, c.43, s.19; 1993, c.31, s.9.

Council may require charge to be heard

47.6 Notwithstanding section 47.5, the council or the executive committee may direct the discipline committee to hear a charge of unbecoming, improper, unprofessional or discreditable conduct without an investigation by the preliminary inquiry committee or a member of that committee.

1989-90, c.43, s.19; 1993, c.31, s.10.

Notice of disposition

47.7 Where an allegation pursuant to section 43.1 has been directed to be investigated pursuant to section 45 or 47, the college shall advise the person making the allegation of any action taken with respect to the allegation pursuant to the section under which the investigation took place.

1989-90, c.43, s.19.

Non-publication order

47.8(1) Where a discipline hearing committee or a competency hearing committee is to be held, the registrar may apply to the court without notice or on notice as directed by the court for an order directing that the identity of any person and any information that could disclose the identity of that person or persons shall not be published in any document or broadcast in any way.

(2) No order pursuant to subsection (1) is to be made with respect to the identity of the person who is the subject of the hearing.

1993, c.31, s.11; 2002, c.21, s.24.

Suspension of member

48(1) The council or the discipline hearing committee may temporarily suspend a member or a person authorized to practise in Saskatchewan against whom allegations have been made or a charge has been laid where it is of the opinion that, on the basis of the charge or allegations or the nature of the case, the person should be suspended pending the outcome of the investigation or hearing.

(1.1) The council shall not suspend a person pursuant to subsection (1) until:

- (a) the council has given notice or caused notice to be given, verbally or in writing, to the person; and
- (b) the person has been given the opportunity to make representations to the council in any manner that the council may determine.

(1.2) The executive committee may suspend, until the next regular meeting of the council, a member or a person authorized to practise in Saskatchewan against whom allegations have been made, or a charge has been laid, where it is of the opinion that, on the basis of the charge, the allegations or the nature of the case, the person should be suspended.

(1.3) The executive committee shall not suspend a person pursuant to subsection (1.2) until:

- (a) the executive committee has given notice, or caused notice to be given, verbally or in writing, to the person; and
- (b) the person has been given the opportunity to make representations to the executive committee in any manner that the executive committee may determine.

(1.4) The registrar, after consultation with the executive committee or the president of the council, may suspend, for a period not exceeding 7 days, a member or a person authorized to practise in Saskatchewan against whom allegations have been made, or a charge has been laid, without conducting a hearing or giving notice or causing notice to be given to the person where the registrar is of the opinion that an emergency exists.

(2) A person suspended under subsection (1) may appeal the suspension and sections 62 to 66 apply *mutatis mutandis* to that appeal.

1980-81, c.M-10.1, s.48; 1988-89, c.13, s.5;
1989-90, c.43, s.20; 1993, c.31, s.12.

Discipline hearings

49(1) Where a person who is the subject of a charge of unbecoming, improper, unprofessional or discreditable conduct admits that he or she is guilty of the charge, the council may:

- (a) conduct a hearing to determine the facts relevant to the imposition of penalties authorized by section 54; or
- (b) refer the matter to a discipline hearing committee constituted in accordance with this section that shall determine the facts relating to the charge and report the committee's findings in writing to the council.

(2) The council may proceed pursuant to section 54 with respect to the person who admitted guilt to the charge in the same manner as if it had received a report pursuant to section 52 after:

- (a) completing a hearing pursuant to clause (1)(a); or
- (b) receiving a report pursuant to clause (1)(b).

(3) The person who is the subject of a hearing may be present at the hearing and may be represented by counsel at the person's own expense.

(4) The council may make bylaws respecting the composition and the operation of the discipline hearing committee and respecting any other matters necessary for the purposes of the discipline hearing committee.

- (5) Where a charge is brought before the discipline committee pursuant to section 47.5 or 47.6, the chairperson or acting chairperson of the discipline committee shall appoint a discipline hearing committee from the members of the discipline committee to determine whether the person charged is guilty of unbecoming, improper, unprofessional or discreditable conduct.
- (6) A discipline hearing committee is to consist of at least three and not more than five members of the discipline committee.
- (7) Three members of the discipline hearing committee shall constitute a quorum.
- (8) The discipline hearing committee may, subject to this Act and the bylaws, regulate its own business and manner of proceedings.
- (9) The discipline hearing committee shall fix the time and place for any hearing and investigation and may adjourn the hearing from time to time as it considers expedient.
- (10) Sections 52 and 53 apply, with any necessary modification, to any hearing held by the discipline hearing committee pursuant to subsection (1).

1993, c.31, s.13.

Evidence at hearing before discipline hearing committee

- 50(1)** A hospital record placed in evidence at a hearing or investigation by the discipline hearing committee is admissible in evidence as prima facie proof of the facts it contains.
- (2) Any letter, statement, prescription, certificate, record or other document purporting to be signed by or in the handwriting of a person registered under this Act and any account for professional services that is on an account form bearing his name is admissible in evidence as prima facie proof of its contents without proof of his signature.
- (3) For the purpose of procuring the attendance and evidence of witnesses before the discipline hearing committee and the production of books, papers and other documents, the local registrar of the court in any judicial centre shall, at the request of counsel acting for the discipline hearing committee or at the request of the person whose conduct is under investigation or his counsel, and on payment of the fees prescribed by The Queen's Bench Rules, issue a writ of *subpoena ad testificandum* or a writ of *subpoena duces tecum*.
- (4) Notwithstanding any other Act or the regulations or orders under any other Act, the records of any hospital may be brought before the discipline committee without special order under writ of *subpoena duces tecum* issued under subsection (3) and served on the chief executive officer of the hospital or the person having the care and control of the records of the hospital.
- (5) Except as otherwise provided in this Act, the rules of evidence for a hearing by the discipline hearing committee and the proceedings and penalties in the case of disobedience to any of the writs mentioned in subsection (3) are the same as in civil cases in the court.

(5.1) During the course of a hearing, the discipline hearing committee may amend any minor defect or error in the charge before the discipline hearing committee if the amendment is necessary to determine the merits of the allegations in the charge.

(5.2) If, during the course of a hearing, the evidence shows that the person whose conduct is the subject of the hearing may be guilty of a charge different from or in addition to any charge against the person, the discipline hearing committee shall notify the person and adjourn the hearing for any length of time that the discipline hearing committee considers sufficient to give the person an opportunity to prepare a defence to the amended charge or to a new charge.

(5.3) Subject to subsection (5.2), the discipline hearing committee may find a person registered under this Act guilty of unbecoming, improper, unprofessional or discreditable conduct on any charge that may be revealed by the facts and substitute that charge for, or amend or add to, the charge that it was appointed to hear.

(6) There is no right to an examination for discovery with respect to any proceeding of the discipline hearing committee.

1980-81, c.M-10.1, s.50; 1982-83, c.16, s.38;
1989-90, c.43, s.22; 1993, c.31, s.14; 2002, c.21,
s.25.

Testimony of witnesses

51 In any proceeding before the discipline hearing committee, the testimony of witnesses shall be taken under oath or affirmation, which the chairman or acting chairman of the committee is hereby authorized to administer, and there is full right to cross examine all witnesses called and to adduce evidence in defence and reply.

1980-81, c.M-10.1, s.51; 1993, c.31, s.15.

Decision of discipline hearing committee

52(1) The decision of the majority of the members of the discipline hearing committee present at a hearing is the decision of the discipline hearing committee.

(2) The discipline hearing committee shall submit a written report of its decision to the council signed by the concurring members of the discipline hearing committee in the decision, and the discipline hearing committee may make any recommendations that it considers advisable.

(3) The discipline hearing committee may suspend the person under investigation from the privileges granted by his registration until the next regular meeting of the council.

1980-81, c.M-10.1, s.52; 1993, c.31, s.16.

Assessors

53(1) For the purpose of advising the discipline hearing committee on questions of law arising in proceedings before it, the council may, for all or a portion of those proceedings, appoint any persons entitled to practise as members of The Law Society of Saskatchewan and who have at least 10 years standing as barristers or solicitors to be assessors to the discipline hearing committee.

(2) The council may make rules respecting the functions of assessors appointed under this section.

(3) An assessor may be appointed either generally or for any particular proceeding or class of proceedings and holds office in accordance with the terms of the instrument under which he is appointed.

(4) The council may pay any person appointed to act as an assessor, as part of the expenses of the council, any remuneration that it may determine.

1980-81, c.M-10.1, s.53; 1993, c.31, s.17; 1995, c.12, s.8.

Penalties

54(1) Upon receipt of a report pursuant to section 52, in the case of a person found by the discipline hearing committee to be guilty of unbecoming, improper, unprofessional or discreditable conduct, the council may:

(a) order that his name be struck from the register, the education register, the temporary register or the podiatric surgical register and his licence or permit, as the case may be, be revoked, and may attach any conditions to the restoration of his name to the register, the education register, the temporary register or the podiatric surgical register that the council considers proper;

(b) suspend him from the privileges of a duly qualified medical practitioner or podiatric surgeon, as the case may be, under this Act and impose any conditions that the council considers proper to be met by him before his privileges as a duly qualified medical practitioner or podiatric surgeon, as the case may be, may be restored;

(c) prohibit him, for any period of time that the council may determine, from:

(i) practising any branch of medicine, surgery, midwifery or podiatric surgery; or

(ii) performing any medical procedure or any medical treatment or surgery of any kind;

(d) require him to provide any services or procedures only under the supervision of a duly qualified medical practitioner or podiatric surgeon approved by the council;

(e) reprimand him;

(f) impose a fine on the person not exceeding \$15,000;

(g) require the person to undertake any upgrading, retraining, education or treatment that the council may specify, within any period of time that the council may specify and suspend the person from the privileges of a duly qualified medical practitioner or podiatric surgeon, as the case may be, if the person should fail to obtain the upgrading, retraining, education or treatment;

- (h) provide for any further assessment of the person's skills and knowledge at any future time that the council may determine;
 - (i) direct the person to pay the costs of and incidental to the investigation and hearing, including the costs of solicitors, members of the preliminary inquiry committee, members of the discipline hearing committee, members of the council, assessors, court reporters and witnesses, and all other costs related to the investigation and hearing, or any part of those costs.
- (2) Costs required to be paid pursuant to clause (1)(i) are a debt due to the college in so far as they were borne in the first instance by the college, and the council may direct that the licence or permit of the person be suspended in the event of the failure of the person to pay the costs.

1980-81, c.M-10.1, s.54; 1989-90, c.43, s.23;
1993, c.31, s.18; 2002, c.21, s.26.

Discipline in another jurisdiction

54.01(1) In this section, “**external regulatory body**” means a body that is responsible for licensing or regulating physicians or podiatric surgeons in a jurisdiction other than Saskatchewan.

(2) Subject to subsection (3), the council may impose one or more of the penalties set out in section 54 on a person registered under this Act where, before or after registration under this Act:

- (a) the person is found by an external regulatory body to have done or failed to have done any act or thing and, in the opinion of the council, that act or failure is unbecoming, improper, unprofessional or discreditable; or
- (b) the person's licence, permit or other authorization to practise medicine or podiatric surgery has been suspended, restricted or revoked by an external regulatory body.

(3) Before imposing a penalty pursuant to subsection (2), the council must:

- (a) give the person registered under this Act an opportunity to be heard; and
- (b) have evidence satisfactory to the council that the person registered under this Act is the person against whom the action described in clause (2)(a) or (b) was taken.

(4) For the purposes of this section, the council may accept a certified copy of the record of the findings made or the action taken by an external regulatory body as proof, in the absence of evidence to the contrary, of the findings made or the action taken by that body, without proof of the signature of the person purporting to have signed on behalf of that body.

2002, c.21, s.27.

Enforcement of pay of costs and fines

54.1 Where a person defaults in the payment of any:

- (a) costs directed or imposed pursuant to subsection 45(12) or subsection 54(1) or (2) to be paid by the person;
- (b) fine imposed on the person pursuant to clause 54(1)(f); or
- (c) penalty imposed on the person pursuant to subsection 54.01(2);

the registrar may file a statement certifying the amount of the costs or fine in the office of the local registrar of Her Majesty's Court of Queen's Bench for Saskatchewan at any judicial centre, and when so filed payment of the amount set out in the statement may be enforced as a judgment of the court.

1989-90, c.43, s.24; 2002, c.21, s.28.

Conviction of indictable offence

55 Where a person who is registered under this Act is, either before or after he is so registered, convicted:

- (a) in Canada of an indictable offence; or
- (b) outside Canada of an offence that would be an indictable offence if it were committed in Canada;

the council may after giving the person an opportunity to be heard and, on production to the council by the registrar of a duly certified copy of the conviction and proof satisfactory to the council that the person registered is the person who was convicted, impose one or more of the penalties set out in section 54.

1980-81, c.M-10.1, s.55; 1989-90, c.43, s.25.

Interview of members

55.1(1) The council may require the attendance before it of any person registered under this Act for the purpose of interviewing the person.

(2) The council may:

- (a) appoint a special committee for the purpose of interviewing a person registered under this Act; and
- (b) make bylaws regarding the size, composition and operation of the committee.

1989-90, c.43, s.26; 2002, c.21, s.29.

Statements, etc., not to be used in evidence, exception

55.2 No statement or answer given by a person registered under this Act:

- (a) under investigation by a preliminary inquiry committee to that committee;
- (b) interviewed by the council to the council; or
- (c) interviewed by a special committee appointed pursuant to section 55.1 to that committee;

may be used in evidence before the discipline committee except on a charge that the person registered under this Act is guilty of unbecoming, improper, unprofessional or discreditable conduct for knowingly giving false information to the preliminary inquiry committee, council or special committee.

1989-90, c.43, s.26; 2002, c.21, s.30.

Production of books, records, etc.

55.3(1) The following may require any person registered under this Act to produce to it any books, records, documents or things in the person's possession or control:

- (a) the council;
 - (b) a preliminary inquiry committee, in relation to an investigation that it is conducting;
 - (c) a special committee, in relation to an interview that it is conducting;
 - (d) a competency committee, in relation to an investigation it is conducting.
- (2) The college may apply *ex parte* to a judge of the court for an order directing a person registered under this Act or any other person to produce to the council, a special committee appointed to interview a person, a preliminary inquiry committee or a competency committee any books, records, documents or things in his or her possession or under his or her control where:
- (a) the person has failed to produce them as required pursuant to subsection (1); or
 - (b) the judge is of the opinion that the issue of the order is just and appropriate in the circumstances.
- (3) The judge may make any order on an application pursuant to subsection (2) that the judge considers just and appropriate in the circumstances.

1989-90, c.43, s.26; 2002, c.21, s.31.

Notice of hearing

56(1) The discipline hearing committee shall serve a notice of hearing on any person whose conduct it is investigating, and the notice is to:

- (a) contain a copy of the allegations made against the person or a statement of the subject matter of the hearing and investigation; and
 - (b) state the time and place of the hearing and investigation.
- (2) Where a person registered under this Act is summoned or required to appear before the preliminary inquiry committee, the council, the professional review committee, a competency committee or mental health committee established pursuant to this Act or a special committee appointed by the council for the purpose of interviewing him, the notice or document summoning him or requiring him to appear is to:
- (a) contain a statement in summary form of the matter into which the investigation is to be made or for which he is required to appear, as the case may be; and
 - (b) state the time and the place set for his appearance.

1980-81, c.M-10.1, s.56; 1993, c.31, s.19.

Service of notice

57(1) A notice or document other than a subpoena required to be served under this Act or under any rule, order or bylaw made pursuant to this Act may be served personally or by registered mail to the last known address of the person being served.

(2) A notice or other document served by registered mail is deemed to have been received on the fifth day following the date of its mailing unless the person to whom it was mailed establishes that, through no fault of his own, he did not receive the notice or other document or that he received it at a later date.

(3) In the case of a hearing or investigation by the preliminary inquiry committee or the discipline hearing committee, or in the case of an appearance before the professional review committee, the council or a special committee appointed by the council, a notice or document other than a subpoena shall be served:

(a) in the case of personal service, not less than seven days; or

(b) in the case of service by registered mail, not less than 30 days;

prior to the date of the hearing or investigation or the sitting of the council or such committee, as the case may be.

(4) Notwithstanding subsections (1), (2) and (3), if it is for any reason impractical to effect service of any documents provided for in subsection (1) in the manner provided for in subsection (1), the court may, on application that may be made without notice, make an order for substitutional service.

(5) A document served in accordance with the terms of an order mentioned in subsection (4) is deemed to be proper service.

1980-81, c.M-10.1, s.57; 1989-90, c.54, s.6; 1993, c.31, s.20.

Failure to appear

58 Where the person whose conduct is the subject of the hearing or investigation by the discipline hearing committee or the competency hearing committee, or investigation by a preliminary inquiry committee, fails to attend, the committee concerned, on proof of service of the notice or document requiring his appearance or attendance, which may be made by the affidavit of the person effecting service, may proceed without further notice to that person and take any action that it is authorized by this Act to take.

1989-90, c.43, s.27; 1993, c.31, s.21.

Investigating committee

59(1) The council may establish investigating committees consisting of any members that the council may appoint, but the majority of the members appointed shall be psychiatrists.

(2) Where the registrar receives information indicating that permitting a person who is registered pursuant to this Act to continue to practice would constitute a danger to the public, the registrar may arrange for the person to be examined by an investigating committee at any time and place that the registrar may designate.

- (3) On receipt of a report or information under subsection (2) and on consultation with the executive committee or with the president of the council, where the registrar is of the opinion that an emergency exists, he may suspend the person to be examined from practising for a period of seven days or until the person is examined by an investigating committee, whichever occurs first.
- (4) Notwithstanding section 57, the registrar shall fix the time and place at which the person to be examined is to appear before an investigating committee for examination and shall notify that person by telephone, telegram, personally or by registered letter of that time and place and of the date of any suspension made under subsection (3).
- (5) Where a person who is duly notified fails to appear before an investigating committee at the time and place fixed for an examination, the registrar may suspend or further suspend the person from practising until he appears before that investigating committee or another investigating committee to be examined by such committee at a time and place fixed by the registrar.
- (6) The registrar, on the recommendation of an investigating committee that has examined the person, may suspend the person from practising for any period of not more than 45 days from the date of the suspension or until the next meeting of the council, whichever occurs first, and the investigating committee shall report its findings to the council at its next meeting and may make any recommendations that it considers appropriate.
- (7) A recommendation or report of an investigating committee pursuant to this section that is concurred in by a majority of the members of that committee is a recommendation or report of the investigating committee.
- (8) The council, on receipt and consideration of a report from an investigating committee relating to a person examined by that committee, may:
- (a) suspend the person from practising for any period of time that it may specify and may impose any conditions to be met by the person that it considers proper before he may resume his practice; or
 - (b) impose any conditions that it considers proper to be complied with by the person if he wishes to continue to practise.
- (9) In arriving at any decision or recommendation under this section involving the suspension of a person from practice or the imposition of conditions to be met by him, the safe and proper practice takes priority over the rehabilitation and treatment of the person.
- (10) Where, under this section, the council suspends a person from practising or imposes conditions with which he must comply, the person may appeal that decision of the council and sections 62 to 66 apply *mutatis mutandis* to that appeal.

1980-81, c.M-10.1, s.59; 1982-83, c.16, s.38;
1984-85-86, c.38, s.25; 1988-89, c.13, s.6.

Protection of college, etc.

60(1) No action lies against the college, the registrar or any employee of the college, the council or any committee appointed by the council or any member of the council or of any such committee for any act done, proceeding taken or judgment given or enforced in good faith under any provision of this or any other Act or by the bylaws, rules, orders or proceedings of the council under this Act.

(2) No witness in a legal proceeding shall be asked any question about proceedings before or by, or information or evidence given to, a committee appointed by the council for the purpose of reviewing matters relating to morbidity, mortality or the cause, prevention, treatment or incidence of disease, but the witness is not excused from answering questions or producing documents that the witness is otherwise bound to answer or produce.

(3) Subsection (2) does not apply to any original medical or hospital records that may have been placed before or considered by a committee mentioned in that subsection.

(4) No person who submits any documents or discloses any information to a committee mentioned in subsection (2) is liable at law or liable to any penal proceeding under any Act for so doing, and, subject to compliance with subsection (5), no committee appointed by the council and no member of that committee who, with the committee's consent, discloses any report or any part of a report of the committee to the public or any person is liable at law or liable to any penal proceeding under any Act for so doing.

(5) All proceedings of a committee described in subsection (2) shall be held *in camera*, and all information and evidence given to that committee in any proceedings shall be treated by the committee and its members as confidential, and, in any report or publication by the committee or a member of that committee relating to its reviews, the names of the physicians or podiatric surgeons and patients connected in any way with the matters under review shall not be disclosed.

(6) Notwithstanding subsections (2) to (5), the council may:

(a) receive from a committee mentioned in subsection (2) any information given to the committee, including the names of physicians, podiatric surgeons and patients; and

(b) if the council considers that it is in the public interest to do so, release any information obtained pursuant to clause (a) to:

(i) another person or organization that is involved in reviewing a matter related to that which was reviewed by the committee;

(ii) another person or organization that provides or regulates health services in Saskatchewan if the council is of the opinion that releasing the information is likely to improve health care delivery in Saskatchewan; and

(iii) the minister:

(A) if the council is of the opinion that releasing the information is likely to improve health care delivery in Saskatchewan;

(B) for the purpose of informing the minister of a review by the committee if, in the opinion of the council, there is a compelling public interest in releasing that information; or

(C) for the purpose of confirming that the committee is reviewing a member.

(7) The council may delegate its powers pursuant to subsection (6) to the registrar subject to any terms and conditions established by the council.

1980-81, c.M-10.1, s.60; 1989-90, c.54, s.6; 2002, c.21, s.32; 2008, c.32, s.2

Legal or other assistance

61 The council, the discipline committee, a preliminary inquiry committee, the executive committee of the council and any other committee appointed by council may, for the purpose of carrying out its duties under this or any other Act, employ at the expense of the college with the approval of the council any legal or other assistance that it considers necessary.

1980-81, c.M-10.1, s.61.

PART VI Appeals

Right of appeal

62(1) A person:

- (a) whose name is struck from the register, the education register, the temporary register or the podiatric surgical register;
- (b) who is prohibited from practising in Saskatchewan;
- (c) who is suspended from practising or reprimanded; or
- (d) whose practice is restricted or who has otherwise been disciplined under section 54 or 54.01;

may appeal in the manner provided in this Part from the decision of the council to the court.

(2) The person appealing pursuant to subsection (1) shall:

- (a) file a notice of appeal with the registrar of the court within 60 days of the date of the decision; and
- (b) at the time of filing a notice of appeal pursuant to clause (a), serve a copy of the notice of appeal on the registrar.

- (3) On hearing the appeal, the court may:
- (a) confirm the decision of the council;
 - (b) vary the decision of the council;
 - (c) substitute its own decision for that of the council; or
 - (d) quash the decision of the council;

and may make any order as to costs that it considers appropriate.

- (4) Where the court quashes the decision of the council, it may direct a new hearing or further inquiry by the discipline committee.

1988-89, c.13, s.7; 2002, c.21, s.33.

Notice of appeal

63 A notice of appeal required pursuant to subsection 62(2) shall set out the grounds of appeal.

1988-89, c.13, s.7.

Transcript of evidence

64(1) As soon as possible after serving a notice of appeal, the person appealing shall deliver a transcript of the evidence before the discipline hearing committee to the registrar of the court.

(2) As soon as possible after being served a copy of the notice of appeal, the registrar shall deliver the record of the discipline hearing committee and the council to the registrar of the court.

1993, c.31, s.22.

Record of proceedings

65 The registrar shall keep in his custody the record of a disciplinary proceeding and no one is entitled to remove that record from his custody except for the purpose of an appeal pursuant to this Part or on the order of a court of competent jurisdiction.

1988-89, c.13, s.7.

Appeal to Court of Appeal

66 With leave of the Court of Appeal, the council or a person who makes an appeal pursuant to section 62 may appeal a decision of the court on a point of law to the Court of Appeal.

1988-89, c.13, s.7.

67 Repealed. 1988-89, c.13, s.7.

68 Repealed. 1988-89, c.13, s.7.

Application for stay pending appeal

69(1) Where the council has ordered that the name of a person be struck from the register or where the council, the discipline hearing committee or any other committee appointed by the council has suspended a person from practising and that person has commenced an appeal under section 62, he may apply to a judge of the court for an order staying the order, or the suspension being appealed from, until the appeal is determined.

(2) An application pursuant to subsection (1) shall be by motion, notice of which shall be served on the registrar at least 10 days before the day on which the motion is returnable.

1980-81, c.M-10.1, s.69; 1993, c.31, s.23.

Protection of public

69.1 In any proceeding before the competency committee or the discipline hearing committee, in any consideration by the council of a report from either of these committees and in any appeal pursuant to this Act, the protection of the public and safe and proper practice shall take priority over the rehabilitation, treatment and welfare of a person registered under this Act.

1988-89, c.13, s.8; 1993, c.31, s.24; 2002, c.21, s.34.

PART VII**Rights, etc., *re* Medical Practitioners**

70 Repealed. 2002, c.21, s.35.

Rights of registered practitioners

71 Every person registered under this Act and not under suspension is entitled to practise in the province within any restrictions, limitations, or conditions fixed by the council on the services that he may provide and to demand and recover reasonable charges in any court of competent jurisdiction in the province with full costs of suit.

1980-81, c.M-10.1, s.71.

72 Repealed. 2004, c.L-16.1, s.56.

Qualifications for appointment to the public service

73 No person is qualified to be appointed as a medical officer, physician or surgeon in any branch of the public service of the province or in any hospital, nursing home or institution unless he is registered pursuant to a provision of this Act other than section 42.1 and not under suspension.

1980-81, c.M-10.1, s.73; 2002, c.21, s.36.

Where medical certificate valid

74 No certificate required by law from a physician or surgeon or medical practitioner is valid unless the person signing it was registered pursuant to a provision of this Act other than section 42.1 and in good standing at the time when the subject matter, in respect of which the certificate applies, occurred.

1980-81, c.M-10.1, s.74; 2002, c.21, s.37.

PART VIII
Offences
EVIDENCE

Publication of list of persons registered

75(1) The registrar shall, under the direction of the council, cause to be printed and published a correct list of the names of the persons registered under this Act and not under suspension, which list shall state the names of those persons arranged alphabetically and their residences.

(2) If the list described in subsection (1) is not published yearly, the registrar shall issue yearly an addendum for the completion of that list to the date of the issue of that addendum, and the list or addendum published or purporting to be published by the registrar is admissible in evidence as prima facie proof in all courts in the province, and before all justices of the peace and others, that the persons specified therein are registered under this Act.

(3) Subject to subsection (4), the absence of the name of any person from the list or addendum pursuant to this section is admissible in evidence as prima facie proof that the person is not registered under this Act.

(4) In the case of a person whose name does not appear in the list or addendum, an affidavit of the registrar that the person is registered and is not under suspension is admissible in evidence as prima facie proof that he is registered under this Act.

1980-81, c.M-10.1, s.75.

Evidence of registration

76(1) A certificate purporting to be signed by the registrar setting out one or more of the facts described in subsection (1.1) constitutes proof, in the absence of evidence to the contrary, of those facts without proof that the person signing it is the registrar or proof of the registrar's signature.

(1.1) Subsection (1) applies to a certificate stating that, on a specified day or during a specified period:

- (a) a person named in the certificate was or was not a member and, in the case of a member, stating the category of membership of the member;

- (b) a corporation named in the certificate:
 - (i) was or was not registered as a professional corporation; or
 - (ii) was or was not the holder of a valid permit; or
 - (c) a person named in the certificate:
 - (i) was or was not registered as a podiatric surgeon; or
 - (ii) was or was not the holder of a valid permit.
- (2) In any case where proof of registration or non-suspension of a person pursuant to this Act is required to validate a witness's evidence and the proof is not available without prejudicial delay to the case or the parties interested, the evidence of the person under oath that he is so registered under this Act and not under suspension is sufficient proof of the facts sworn by him.

1980-81, c.M-10.1, s.76; 2000, c.15, s.11; 2002, c.21, s.38.

Onus of proof

77 In a prosecution under this Act, the burden of proof of authorization to practise or of non-suspension is on the person charged.

1980-81, c.M-10.1, s.77.

OFFENCES

When physician not entitled to rights

78 A person entitled to be registered under this Act who neglects or omits to be so registered is not entitled to any rights or privileges conferred by registration during the time that the omission or neglect continues, and he is liable to the penalties imposed by this Act or any other Act in force against unqualified or unregistered persons.

1980-81, c.M-10.1, s.78; 2002, c.21, s.39.

Practising defined

79 Every person is deemed to practise medicine within the meaning of this Act who:

- (a) holds himself out as being able to diagnose, treat, operate or prescribe for any human disease, pain, injury, disability or physical condition; or
- (b) offers or undertakes by any means or methods to diagnose, treat, operate or prescribe for any human disease, pain, injury, disability or physical condition.

1980-81, c.M-10.1, s.79.

Penalty for unlawfully practising

80(1) A person who is not registered under this Act and who:

- (a) for hire, gain or hope of reward:
 - (i) engages in, professes to engage in or advertises to give advice in any aspect of practice; or
 - (ii) furnishes any medicine or treats any disease or ailment by medicine, drugs or any Form of treatment, influence or appliance;
- (b) takes or uses any name, title, addition or description representing, implying or calculated to lead people to infer that he is registered under this Act to practise, or that he is recognized by law as a physician, surgeon or podiatric surgeon;
- (c) assumes, uses or employs the term “doctor”, “surgeon”, “physician” or “podiatric surgeon” or any affix or prefix indicative of any such title as an occupational designation that relates to the treatment of human ailments, or advertises or holds himself out as such;
- (d) pretends to be a physician, doctor of medicine, surgeon, podiatric surgeon, practitioner or healer of the sick; or
- (e) assumes any title, addition or description other than that which he actually possesses and is legally entitled to use under this Act;

is guilty of an offence and liable on summary conviction, in the case of a first offence, to a fine of not more than \$5,000, in the case of a second offence, to a fine of not more than \$10,000, and, in the case of a third or subsequent offence, to a fine of not more than \$15,000.

(2) Every director, officer or agent of a corporation who directed, authorized, assented to, acquiesced in or participated in an act or omission of the corporation that would constitute an offence by the corporation is guilty of that offence, and is liable on summary conviction:

- (a) for a first offence, to a fine of not more than \$5,000;
- (b) for a second offence, to a fine of not more than \$12,000; and
- (c) for a third or subsequent offence, to a fine of not more than \$20,000.

1980-81, c.M-10.1, s.80; 1989-90, c.43, s.28;
2000, c.15, s.12; 2002, c.21, s.40.

Limitation of prosecution

81 No prosecution shall be commenced for an offence against section 80 of this Act after the expiration of one year from the date of the commission of the alleged offence.

1980-81, c.M-10.1, s.81; 1989-90, c.43, s.29.

EXCEPTIONS

Non-application to certain situations

82 Nothing in this Act applies to or affects:

- (a) a lawfully qualified physician in any other province or country meeting with a legally qualified medical practitioner in Saskatchewan in consultation;
- (b) the furnishing of first aid or temporary assistance in cases of emergency;
- (c) the domestic administration of family remedies; or
- (d) a person who practises the religious tenets of his church without pretending to have a knowledge of medicine, surgery, midwifery or podiatric surgery, provided that any laws, rules and regulations relating to contagious diseases and sanitary matters are not violated.

1980-81, c.M-10.1, s.82; 2002, c.21, s.41.

Non-application to powers granted under other Acts

83 Nothing in this Act applies to or affects powers given to persons under the authority of any other Act.

1980-81, c.M-10.1, s.83.

Non-application of other Acts

84 Nothing in any other Act applies to or affects a physician or podiatric surgeon engaged in practice under the authority of this Act.

1980-81, c.M-10.1, s.84; 2002, c.21, s.42.

Application of fines

85 All fines imposed under this Act and all moneys received or levied thereunder are, upon receipt by the person authorized to receive them, to be promptly paid by that person to the registrar for the uses of the college as the council may direct.

1980-81, c.M-10.1, s.85.

PART IX
Miscellaneous
 RESTORATION OF LICENCE

Restoration of licence, permit

86 The council may restore the licence or permit, as the case may be, of any person where it considers that the interest of the public has been adequately protected, and it may require that person to pay a restoration fee, the amount of which is not to exceed the amount of the registration fee.

1980-81, c.M-10.1, s.86.

PRACTICE ENHANCEMENT COMMITTEE RECORDS

Non-compellability re practice enhancement committee records

86.1(1) In this section:

- (a) **“legal proceeding”** means any proceeding in a court, and includes any proceeding that arises out of, is required by or is incidental to a proceeding in a court, whether it is held in court or not;
 - (b) **“practice enhancement committee”** means the committee of the college established, and in which the Saskatchewan Medical Association participates, for the purpose of reviewing and improving the quality of medical care provided by members.
- (2) No person is compellable to give evidence in a legal proceeding with respect to any proceedings before the practice enhancement committee or any information or evidence provided to the practice enhancement committee.
- (3) No person is compellable in a legal proceeding to produce a record of a proceeding before the practice enhancement committee or any record, document or information prepared from, or statement given at, a proceeding before the practice enhancement committee.
- (4) This section does not apply to:
- (a) records, documents or information with respect to patients that are kept by:
 - (i) a member or a professional corporation;
 - (ii) a regional health authority or affiliate, as defined in *The Regional Health Services Act* ; or
 - (iii) any other person who operates a health care facility or provides a health service; or
 - (b) any other record, document or information that has been prepared or kept for a purpose unrelated to the practice enhancement committee.

2000, c.15, s.13; 2002, c.R-8.2, s.84.

RETURNS, REPORTS, ETC.

Returns

87 The registrar, when so required by the Lieutenant Governor in Council, shall transmit to the Minister of Justice a certified return under the seal of the council containing all information and particulars relating to the college that may be required or requested.

1980-81, c.M-10.1, s.87; 1991, c.T-1.1, s.26.

Filing of bylaws

88(1) The college shall file with the minister two copies, certified by the registrar to be true copies, of:

- (a) all bylaws made pursuant to this Act other than bylaws made pursuant to subsection 6(1); and
 - (b) any amendment to a bylaw described in clause (a) together with two copies of the bylaw to which the amendment relates.
- (2) Where the college adopts a code of ethics governing persons registered under this Act and subscription to or observance of that code is a condition of registration under this Act, the code of ethics is, for the purposes of this section and sections 90 and 91, deemed to be a bylaw made pursuant to subsection 6(2).
- (3) Where the minister does not advise the college in writing within 90 days of receiving copies of the bylaw or amendment that the minister does not approve the bylaw or amendment, the bylaw or amendment is deemed to have been approved.
- (4) Where the minister approves a bylaw or an amendment to a bylaw or the bylaw or amendment is deemed to have been approved pursuant to subsection (3), the minister shall file with the Director of Corporations two copies, certified by the registrar to be true copies, of the bylaw or amendment.
- (5) **Repealed.** 2002, c.21, s.43.
- (6) Every bylaw and amendment mentioned in subsection (1) and approved by the minister or deemed to have been approved pursuant to subsection (3), comes into effect on the date on which it is published in the Gazette.

1989-90, c.43, s.30; 1991, c.T-1.1, s.26; 2002, c.21, s.43; 2010, c.B-12, s.40.

Same

89 The college shall file with the Director of Corporations two copies, certified by the registrar to be true copies, of all bylaws made pursuant to subsection 6(1).

2002, c.21, s.44; 2010, c.B-12, s.40.

Review by Assembly

90(1) One copy of each bylaw and amendment filed pursuant to section 88 is to be laid before the Assembly by the minister responsible for the administration of *The Business Corporations Act* in accordance with *The Tabling of Documents Act, 1991*.

(2) Where a bylaw or amendment laid before the Assembly is found by the Assembly to be beyond the powers delegated by the Legislature or in any way prejudicial to the public interest, the bylaw or amendment ceases to have effect and is deemed to have been revoked.

1991, c.T-1.1, s.26; 2010, c.B-12, s.40.

Record of revocation and notification

91(1) Where it appears from any Votes and Proceedings of the Assembly that any bylaw or amendment has ceased to have effect, the Clerk of the Assembly shall immediately forward two copies of the Votes and Proceedings to the Director of Corporations.

(2) On receipt of copies mentioned in subsection (1), the Director of Corporations shall:

- (a) file one of the copies with the bylaw or amendment to which it relates; and
- (b) immediately:
 - (i) forward the other copy to the college; and
 - (ii) at the same time, advise the college that the copy is forwarded pursuant to this subsection.

1989-90, c.43, s.30; 1991, c.T-1.1, s.26; 2010, c.B-12, s.40.

Annual report

91.1 The college shall file an annual report with the minister in the form, with the contents and in the time prescribed by the minister.

1995, c.12, s.10.

92 to 95 Repealed. 1989-90, c.43, s.30.

96 Repealed. 1988-89, c.13, s.9.

97 Repealed. 2004, c.60, s.13.

REPEAL**R.S.S. 1978, c.M-10 repealed**

98 *The Medical Profession Act* is repealed.

1980-81, c.M-10.1, s.98.