

BILL NO. 19

(as passed, with amendments)



*2nd Session, 58th General Assembly
Nova Scotia
50 Elizabeth II, 2001*

Government Bill

Licensed Practical Nurses Act

CHAPTER 7 OF THE ACTS OF 2001

The Honourable Jamie A. Muir
Minister of Health

[First Reading](#): April 4, 2001

Second Reading: May 18, 2001

[Third Reading](#): May 29, 2001 (WITH COMMITTEE AMENDMENTS)

Royal Assent: June 1, 2001



**An Act to Establish the College of
Licensed Practical Nurses of Nova Scotia**

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Licensed Practical Nurses Act*.

2 In this Act,

- (a) "Board" means the Board of the College;
- (b) "class" means a category of licensing established pursuant to this Act or the regulations;
- (c) "client" means a recipient of nursing services;
- (d) "College" means the College of Licensed Practical Nurses of Nova Scotia;
- (e) "complaint" means a notice in writing to the College from any person, including the College, alleging professional misconduct, conduct unbecoming the profession, incompetence or incapacity of a registrant;
- (f) "complaints committee" means a complaints committee established under this Act;
- (g) "discipline committee" means a discipline committee established under this Act;
- (h) "Executive Director-Registrar" means the Executive Director-Registrar of the College;
- (i) "former Act" means Chapter 319 of the Revised Statutes of Nova Scotia, 1989, the *Licensed Practical Nurses Act*;
- (j) "graduate practical nurse" means a person whose name is entered on the Register of Graduate Practical Nurses under this Act;
- (k) "incapacity" means the status whereby a respondent, at the time of the subject-matter of a complaint, suffered from a physical, mental or emotional condition, disorder or addiction that rendered the respondent unable to practise practical nursing with reasonable skill or judgement or that may have endangered the health or safety of clients;
- (l) "incompetence" means the display of lack of knowledge, skill or judgement in the respondent's care of a client or delivery of practical nursing services that, having regard to all the circumstances, rendered the respondent unsafe to practise practical nursing at the time of such care of the client or delivery of practical nursing services or that renders the respondent unsafe to continue in the practice of practical nursing without remedial assistance;
- (m) "investigator" means the Executive Director-Registrar or a person designated by the Executive Director-Registrar to conduct an investigation into a complaint;
- (n) "licence" means a licence issued pursuant to this Act;
- (o) "licensed practical nurse" means a person who is licensed as a practical nurse pursuant to the regulations;
- (p) "medical practitioner" means a person licensed to practise medicine pursuant to the *Medical Act*;
- (q) "practical-nursing education program" means a program approved by the Board as a requirement for registration under this Act;
- (r) "practice of practical nursing" means the provision of nursing services, as defined by the educational preparation and level of competence, for the purpose of
 - (i) assessing, implementing and evaluating services,
 - (ii) promoting health,

(iii) preventing illness, and

(iv) assisting individuals, families and groups to achieve an optimal state of health;

(s) "professional-conduct process" means the disciplinary processes described in this Act and the regulations;

(t) "professional misconduct" includes such conduct or acts relevant to the practice of practical nursing that, having regard to all the circumstances, would reasonably be regarded as disgraceful, dishonourable or unprofessional which, without limiting the generality of the foregoing, may include

(i) failing to maintain the College of Licensed Practical Nurses of Nova Scotia standards,

(ii) failing to uphold the code of ethics adopted by the College,

(iii) abusing a person verbally, physically, emotionally or sexually,

(iv) misappropriating personal property, drugs or other property belonging to a client or a registrant's employer,

(v) inappropriately influencing a client to change a will,

(vi) wrongfully abandoning a client,

(vii) failing to exercise discretion in respect of the disclosure of confidential information,

(viii) falsifying records,

(ix) inappropriately using professional-nursing status for personal gain,

(x) promoting for personal gain any drug, device, treatment, procedure, product or service that is unnecessary, ineffective or unsafe,

(xi) publishing, or causing to be published, any advertisement that is false, fraudulent, deceptive or misleading,

(xii) engaging or assisting in fraud, misrepresentation, deception or concealment of a material fact when applying for or securing registration or a licence to practise practical nursing or taking any examination provided for in this Act, including using fraudulently procured credentials;

(u) "public representative" means a person who is not and never has been a registrant under this Act, is not a member and never has been a member of a health profession and has shown an interest in serving on the Board;

(v) "Register" means the Register of the College kept pursuant to this Act and includes the Record of Temporary Licences, the Record of Classes and the Register of Graduate Practical Nurses;

(w) "registered nurse" means a person licensed to practise nursing pursuant to the *Registered Nurses Act*;

(x) "registrant" means a registrant of the College whose name is on the Register and who holds a licence;

(y) "respondent" means a person who is the subject of a complaint;

(z) "settlement proposal" means a proposal for the settlement of a complaint as prescribed in the regulations;

(aa) "temporary licence" means a temporary licence issued pursuant to this Act.

3 Nothing in this Act or the regulations applies to or affects the nursing of a sick person, gratuitously or for remuneration, by a person who does not assume to be or hold himself or herself out to be a licensed practical nurse.

4 No person shall establish, maintain or conduct a program or course required for licensed practical nurses, or hold himself or herself out as being willing or able to educate or instruct persons to become licensed practical nurses except in compliance with this Act or the regulations.

COLLEGE OF LICENSED PRACTICAL NURSES
OF NOVA SCOTIA

5 (1) The Practical Nurses Licensing Board of Nova Scotia is continued as a body corporate under the name College of Licensed Practical Nurses of Nova Scotia and, subject to this Act, has the capacity, rights, powers and privileges of a natural person.

(2) The College has perpetual succession and a common seal, with power to acquire, hold, lease, mortgage and otherwise dispose of real and personal property, and may sue and be sued.

(3) In order that the public interest may be served and protected, the objects and purpose of this Act are to empower the College to regulate the practice of licensed practical nurses through

(a) setting the standards for admission to practical-nursing programs;

(b) setting the standards for education that must be completed by any person before that person is eligible to be licensed pursuant to this Act;

(c) setting the standards for evaluating and approving, on an on-going basis, programs for the education of licensed practical nurses in the Province in order to determine whether such programs are operating in compliance with prescribed standards;

(d) setting standards for registration and licensing requirements;

(e) setting standards for practice;

(f) setting standards for professional-conduct processes; and

(g) establishing and promoting a code of ethics and standards of practice.

(4) In addition to any other power conferred by this or any other Act, the College may do such things as it considers appropriate to advance the objects of the College and, without limiting the generality of the foregoing, may

(a) purchase, take in, lease, exchange, hire, construct and otherwise acquire and hold, sell, mortgage, hypothecate, lease out or otherwise deal with any real or personal property;

(b) draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, warrants and other negotiable and transferable instruments;

(c) engage such agents and employees as it, from time to time, deems expedient;

(d) expend the moneys of the College in the advancement of its objects and the interests of the profession of practical nursing in such manner as it deems expedient;

(e) establish and maintain such offices and agencies as it deems expedient;

(f) invest and deal with any moneys and funds of the College that are not immediately required, in such manner as it deems expedient;

(g) improve, manage, develop, exchange, dispose of, turn to account or otherwise deal with the real or personal property of the College;

(h) borrow money for the use of the College on its credit, limit or increase the amount to be borrowed, issue bonds, debentures, debenture stock and other securities on the credit of the College and pledge or sell such securities for such sums or at such prices as may be deemed expedient;

(i) do such things as are incidental or necessary to the exercise of the powers referred to in clauses (a) to (h).

BOARD

6 (1) There shall be a Board of the College consisting of

(a) four persons appointed by the Governor in Council who shall be public representatives;

(b) five licensed practical nurses elected in the manner provided by this Act;

(c) one registered nurse appointed by the Registered Nurses' Association of Nova Scotia;

(d) one qualified medical practitioner appointed by the Medical Society of Nova Scotia; and

(e) one person employed by an institution offering an approved program for practical nursing and appointed by the President of the Nova Scotia Community College.

(2) Members of the Board shall be elected or appointed to office for a term of three years.

(3) Notwithstanding subsection (2), the terms of office of members of the Board upon the first election or appointment of members of the Board shall be

(a) two years for two persons appointed by the Governor in Council;

(b) three years for two persons appointed by the Governor in Council;

(c) two years for two elected licensed practical nurses; and

(d) three years for three elected licensed practical nurses.

(4) Notwithstanding subsections (2) and (3), persons appointed by the Governor in Council pursuant to subsection (1) hold office until their successors are appointed, or until such time as they are re-appointed, even if such appointment or re-appointment does not occur until after their specified term of office has otherwise expired.

(5) Elections required by this Section shall be held no later than six months after the coming into force of this Act.

7 (1) In this Section, "consecutive" means that twelve months or less occurred between the end of one term and the commencement of the next.

(2) Every registrant in good standing is eligible to be nominated as and vote for a candidate for membership on the Board.

(3) Elected or appointed members of the Board may not be members of the Board for more than two consecutive terms but are eligible for election or appointment after an absence from the Board of least two years.

8 The Board may make regulations governing elections of members of the Board and, in those regulations, may

(a) provide for the procedure for the nomination of candidates;

(b) provide for the appointment or designation of presiding officers for the elections;

(c) prescribe the forms to be used;

(d) subject to Section 11, prescribe the procedure to be used for the holding of the elections and for determining the persons elected as members of the Board.

9 Members of the Board required to be elected shall be elected by secret ballot.

10 The ballots used at an election shall not be destroyed until all petitions pursuant to Section 11 in respect of the election have been decided and, until that time, the ballots shall be retained by the Registrar together with all other papers in connection with the election.

11 (1) A person may petition the Board against the election of a person to the Board by filing a petition with the Registrar within fifteen days after the election.

(2) The petitioner shall state in the petition the grounds on which the election is disputed.

(3) The petitioner shall serve a copy of the petition upon the person whose election is disputed.

(4) Where a petition is filed with the Registrar pursuant to subsection (1), the Board shall hold an inquiry and, where

(a) the election is found to be illegal; or

(b) the person is found not to be eligible to be nominated as a candidate for membership on the Board,

shall order that a new election be held.

12 (1) In case of failure in an election to elect the required number of duly qualified members of the Board, the Registrar shall cause an election to be held within sixty days for the purpose of filling the vacancy.

(2) Where a vacancy occurs in the Board with respect to a member of the Board elected pursuant to clause 6(1)(b), the remaining members may appoint another licensed practical nurse in good standing to fill the vacancy.

(3) Where an election is held pursuant to subsection (1) or an appointment is made pursuant to subsection (2) to fill a vacant Board position, the term of office for the position shall be the remainder of the unexpired term of such position.

(4) A vacancy on the Board does not impair the right of the remaining members to act.

13 An elected member of the Board ceases to hold office where

(a) the member resigns by notice in writing delivered to the Registrar; or

(b) the member ceases to be a registrant in good standing of the College, as defined in the regulations.

14 The Board shall elect from among its members a Chair, a Vice-chair and such other officers as it deems necessary.

15 (1) In this Section, "consecutive" means that twelve months or less occurred between the end of one term and the commencement of the next.

(2) The Chair and the Vice-chair each hold office for a term of two years, but are not eligible for more than two consecutive terms.

16 Where an officer of the Board resigns or otherwise ceases to hold office before the expiration of the officer's term, the Board shall elect a person from among its members to hold such office for the balance of the unexpired term.

17 The members and officers of the Practical Nurses Licensing Board pursuant to the former Act who are in office immediately before the coming into force of this Act continue in office until their successors are elected or appointed pursuant to this Act.

18 (1) Where a member of the Board fails to attend, in any twelve-month period, at least seventy-five per cent of the Board meetings or meetings of committees of which that member is a member, without reasonable excuse, the Chair of the Board may, subject to subsection (2) and upon written notice to that member, revoke that member's membership on the Board or the committee, as the case may be.

(2) In the case of an appointment made pursuant to clause 6(1)(a), the Chair may only request that the Governor in Council revoke the appointment of the member in question.

19 A majority of the members of the Board, including at least two members elected pursuant to clause 6(1)(b), constitute a quorum and may transact any business of the Board.

20 (1) The Board shall hold an annual meeting and such other meetings as the Board may determine at such time and place as the Board determines.

(2) Where ten per cent of the registrants of the College request in writing, whether by petition or otherwise, that a special general meeting be held, the Board shall hold such meeting within fifteen working days of determining that ten per cent of the registrants have requested such a meeting.

21 (1) Subject to subsection (2), the Chair of the Board shall preside at all meetings of the Board and of the College.

(2) Where the Chair is absent from a meeting, the Vice-chair or, in the case of the Vice-chair's absence, some other member of the Board or of the College, as the case may be, chosen by the members present shall preside at the meeting.

(3) Except in the event of an equal number of votes being given for and against a resolution at any meeting, the Chair or other presiding officer shall not vote.

22 Each member of the Board shall receive such remuneration as the Board may determine and shall be reimbursed for reasonable expenses actually incurred in carrying out the business of the Board.

23 (1) The Board shall appoint a registered nurse or a licensed practical nurse to be the Executive Director-Registrar of the Board who shall carry out such duties as this Act provides or the Board determines.

(2) The Executive Director-Registrar may delegate any functions assigned to the Executive Director-Registrar by this Act or the regulations.

(3) The Executive Director-Registrar shall

(a) attend all meetings of the Board as a non-voting member and all committees appointed by the Board as a non-voting member and keep a record of the proceedings of all such meetings in a book or books to be maintained for that purpose;

(b) be responsible for the investments on behalf of the Board which will be reported in the annual financial statement submitted by the auditor;

(c) maintain the Register required by this Act;

(d) upon direction from the Board, issue licences to all applicants who have fulfilled the requirements for registration as prescribed by the regulations;

(e) review programs and courses and report thereon to the Board;

(f) inspect institutions in which clinical experience is or may be provided and report thereon to the Board;

(g) administer any examination prescribed by the Board; and

(h) perform such other duties as the Board may prescribe.

24 The Board shall appoint such other officers, agents or employees at such salary or other remuneration, and for such term of office, as the Board considers necessary to assist it in carrying out its duties pursuant to this Act.

25 (1) To more effectively carry out the objects and purpose of this Act, the Board may

- (a) examine applicants applying to be licensed;
- (b) issue or cause to be issued licences to persons who are qualified to practise practical nursing in accordance with this Act and the regulations;
- (c) establish and maintain all registers as are required to be kept pursuant to this Act and the regulations;
- (d) hear complaints against registrants and administer disciplinary procedures through the Board's complaints and discipline committees;
- (e) suspend, revoke, restrict or refuse to renew licences;
- (f) subject to the regulations, publicize disciplinary decisions at the discretion of a discipline committee;
- (g) review the operation of this Act and the regulations and make recommendations thereon;
- (h) perform such other tasks as are in keeping with the objects and purpose of the Act.

26 The Board shall

- (a) manage and conduct the business and affairs of the College; and
- (b) exercise the rights, powers and privileges of the College in the name and on behalf of the College.

27 (1) Subject to this Act, the Board shall govern, control and administer the affairs of the College and, without limiting the generality of the foregoing, may make by-laws

- (a) providing for the management of the College, including the keeping of the Register;
- (b) providing for the establishment of fees payable by applicants and registrants of the College and providing for the collection thereof and, where the Board deems advisable, designating different classes of applicants and registrants and prescribing different fees for different classes;
- (c) fixing and regulating the time and place of annual, regular and special general meetings of the College;
- (d) providing for the establishment of fees and expenses payable to persons sitting on the Board and any other committees established for the purpose of attending to the business of the College;
- (e) establishing and maintaining a code of ethics;
- (f) respecting the composition, powers and duties of such committees as may be appointed by the Board, and providing for the holding and conduct of meetings of such committees;
- (g) prescribing the seal of the College;
- (h) providing for the execution of documents by the College;
- (i) providing for the establishment of forms and providing for their use;
- (j) providing procedures not inconsistent with this Act for the making, amending and revoking of regulations;

- (k) respecting information to be included in the Register;
- (l) governing elections of members of the Board;
- (m) respecting all other things necessary for the administration of the affairs of the College.
- (2)** With the approval of the Governor in Council, the Board may make regulations
 - (a) prescribing admission standards for entrance to practical-nursing programs;
 - (b) developing, establishing and maintaining the standards for education that must be completed by any person before that person is eligible to be licensed pursuant to this Act;
 - (c) developing, establishing and maintaining the standards for evaluating and approving, on an on-going basis, practical-nursing education programs;
 - (d) developing, establishing and maintaining standards of practice for licensed practical nurses;
 - (e) respecting the registration and licensing of registrants;
 - (f) creating one or more classes of licensing and prescribing the rights, privileges, qualifications and obligations of the registrants of each class;
 - (g) placing restrictions on a registrant's licence to practise practical nursing;
 - (h) providing for the issuance of temporary licences and the placement of restrictions on such licences;
 - (i) respecting appeal processes by the Board and powers of the Board when a licence or a temporary licence has been refused by the Executive Director- Registrar;
 - (j) respecting the disciplining of registrants of the College;
 - (k) developing, establishing and maintaining standards for professional-conduct processes, including the powers and procedures of an investigator, a complaints committee and a discipline committee;
 - (l) respecting procedures with respect to settlement proposals;
 - (m) respecting the procedure to be followed at hearings by a disciplinary committee and determinations that may be made by a disciplinary committee, including the ability to award costs;
 - (n) respecting the reporting and publication of decisions in disciplinary matters;
 - (o) respecting the revocation or suspension of licences issued pursuant to this Act and the reinstatement of such licences and allowing for conditions, limitations or restrictions to be attached to a reinstated licence;
 - (p) providing that the licence of a registrant be suspended without notice of investigation upon contravention of any regulation that requires the registrant to pay a fee, file a document or do any other act by a specified or ascertainable date, and providing for the reinstatement of a licence so suspended, including, but not limited to, a hearing held by a discipline committee;
 - (q) respecting the exemption of a registrant from the requirements of Section 44;
 - (r) providing for practice-hour requirements of registrants;
 - (s) approving and recognizing examinations and other matters that are a prerequisite to qualifying as a licensed practical nurse;

- (t) regulating, controlling and prohibiting the use of terms, titles or designations by registrants;
 - (u) prescribing the type of professional liability insurance or other form of malpractice coverage a registrant must hold;
 - (v) defining any word or expression used but not defined in this Act;
 - (w) further defining any word or expression defined in this Act;
 - (x) respecting and governing such other subjects, matters and things as may be required to give effect to the objects of the College and this Act.
- (3)** All by-laws and regulations of the College shall be available for inspection by any person, free of charge, at the head office of the College at all reasonable times during business hours.

(4) A certificate purporting to be signed by the Executive Director-Registrar stating that a certain by-law or regulation of the College was, on a specified day or during a specified period, a duly enacted by-law or regulation of the College in full force and effect constitutes *prima facie* evidence in any court of that fact without proof that the person who signed it is the Executive Director-Registrar or that it is the Executive Director-Registrar's signature.

REGISTRATION AND LICENSING

28 (1) The Board shall keep a Register and shall, upon payment of the prescribed fee, cause to be entered in the Register the name and qualifications of any person who qualifies for registration according to this Act and the regulations.

(2) The name and qualifications of every person who, at the coming into force of this Act, is registered pursuant to the former Act, shall be entered in the Register, but shall continue under any stipulations or limitations attached to the person's previous registration.

(3) The Executive Director-Registrar shall issue a licence to every person who, at the coming into force of this Act, is registered pursuant to the former Act.

(4) Every licence issued pursuant to subsection (3) is subject to any conditions or limitations attached to the registration pursuant to the former Act.

29 The Board may create separate classes of licensing as provided by the regulations and, following the entry of a registrant's name in the Register, shall maintain data respecting the registrants recorded in each class.

30 The Executive Director-Registrar shall issue a licence to practise practical nursing to a person who meets the criteria for entry in the active-practicing class as outlined in the regulations.

31 (1) Where a person

(a) fails to meet the requirements or conditions for a licence to practise practical nursing as prescribed by the regulations; or

(b) is licensed to practise practical nursing in another jurisdiction and it is otherwise impractical to issue a licence to practise practical nursing,

the Executive Director-Registrar, upon payment of the prescribed fee, may approve, with or without limitations, or refuse an application for a temporary licence according to the requirements prescribed by the regulations and shall notify the applicant accordingly.

(2) A temporary licence issued pursuant to subsection (1) shall

(a) be issued for a specified period of time, not to exceed twelve months in total; and

(b) set out any restriction in the practice of practical nursing in which the licence-holder may engage.

(3) The College shall maintain a Record of Temporary Licences.

32 The Executive Director-Registrar shall give to an applicant who is refused a licence or a temporary licence pursuant to Section 30 or subsection 31(1) written reasons for the refusal and the applicant may, by written notice, appeal that decision to the Board within thirty days of receipt of such written reasons.

33 (1) The Board, upon receipt of an appeal pursuant to Section 32, shall

(a) set a date for the hearing of the appeal, which shall be not later than sixty days following receipt of the written notice of appeal;

(b) serve written notice of the date, time and place for the hearing of the appeal upon the applicant and the Executive Director-Registrar; and

(c) advise the applicant of the right to

(i) be represented by legal counsel, a union representative or another representative at the expense of the applicant,

(ii) disclosure of any information to be provided by the Board, and

(iii) a reasonable opportunity to present a response and make submissions.

(2) Evidence is not admissible before the Board unless, at least ten days before the appeal, the opposing party has been given

(a) in the case of written or documentary evidence, an opportunity to examine the evidence;

(b) in the case of evidence of an expert, a copy of the expert's written report or, where there is no written report, a written summary of the evidence; and

(c) in the case of any other witness, the identity of the witness.

(3) Notwithstanding subsection (2), the Board may, in its discretion, allow the introduction of evidence that is otherwise inadmissible under subsection (2) and may make directions it considers necessary to ensure that a party is not prejudiced.

34 (1) The Board, in accordance with the information it receives, when hearing an appeal, may make any determination that, in its opinion, ought to have been made by the Executive Director-Registrar.

(2) The Board shall give its decision in writing and shall send to the applicant a copy of the written decision by registered mail or personal service.

35 (1) Notwithstanding anything contained in this Act, where a person has been convicted or found to be guilty, by a court in or out of Canada, of any offence that is inconsistent with the proper professional behavior of a licensed practical nurse, including a conviction under the *Criminal Code* (Canada) or the *Controlled Drugs and Substances Act* (Canada) for which a pardon has not been granted, and such person applies for registration, the Executive Director-Registrar may refuse to register the person, but the Board may, at any time, permit such person to be registered or to remain registered upon such terms and conditions as the Board may direct.

(2) Upon application for registration or a licence, an applicant shall advise the Executive Director-Registrar in writing of any convictions referred to in subsection (1).

(3) A licensed practical nurse or a person holding a temporary licence who is convicted of an offence referred to in

subsection (1) shall advise the Executive Director-Registrar in writing of the conviction within thirty days of the conviction being entered.

36 The College shall, during regular business hours, permit any person to inspect the Register, the Record of Classes and the Record of Temporary Licences.

37 (1) No person shall engage in the practice of practical nursing in the Province unless

(a) that person's name is entered in the Register and in the roster of active-practicing class of registrants and that person is the holder of a current licence;

(b) that person is the holder of a temporary licence;

(c) that person is a student nurse enrolled in a practical-nursing education program and is required to engage in the practice of practical nursing in a course of the practical-nursing education program; or

(d) that person is permitted to engage in the practice of practical nursing as provided in this Act or the regulations, or as otherwise provided by law.

(2) A licensed practical nurse shall only practise practical nursing under the general direction of a duly qualified medical practitioner or a registered nurse.

38 A certificate of or purporting to be signed by the Executive Director-Registrar or other officer of the Board stating that a person named therein was or was not licensed as a licensed practical nurse under this Act at a time or during a period stated in the certificate is *prima facie* evidence in any court of that fact without proof that the person signing it is the Executive Director-Registrar or an officer of the Board.

39 Where the right of a registrant to practise as a licensed practical nurse has been limited by the imposition of conditions pursuant to this Act or the regulations, particulars of all conditions imposed on that person shall be noted in the Register and on the registrant's licence during any time when such conditions apply.

40 (1) The Executive Director-Registrar shall cause the removal of the name of registrant from the appropriate class

(a) at the request of the registrant, upon surrendering any licence held by the registrant;

(b) where the registrant's name has been incorrectly entered;

(c) where notification is received of the registrant's death;

(d) for non-payment of fees or other assessments levied under this Act or the regulations;

(e) where the registrant has been suspended, for the term of the suspension; or

(f) where the registration of the registrant has been revoked.

(2) Where a registrant ceases to be a registrant for any reason, or where a person ceases to be registered or licensed for any reason, such person remains subject to the jurisdiction of the College in respect of any disciplinary matter arising out of the person's conduct while a registrant or while registered.

41 The Board may cause the name of a person removed from the appropriate class to be restored upon

(a) payment of the prescribed fee; and

(b) compliance by the person with this Act and the regulations.

42 (1) Every registrant who is engaged in the practice of practical nursing shall hold a current licence to practise or a

temporary licence under this Act.

(2) Every person, other than a client, who employs a person in the practice of practical nursing and every agency or registry that procures employment for a person in the practice of nursing shall

(a) ensure that the person, at the time of employment and each year employed thereafter, holds a current licence to practise or a temporary licence under this Act; and

(b) where the person's employment is terminated because of professional misconduct, conduct unbecoming the profession, incompetence or incapacity, report the matter to the Executive Director-Registrar forthwith and provide a copy of the report to the person whose employment is terminated.

PROHIBITIONS

43 (1) A person licensed pursuant to this Act who practises practical nursing in violation of any condition or limitation contained in the person's licence is guilty of an offence.

(2) A person who practises practical nursing

(a) while the person's licence is suspended or revoked; or

(b) without a licence,

is guilty of an offence.

44 A registrant who leaves the Province for longer than the period prescribed in the regulations shall not engage in the practice of practical nursing on the registrant's return to the Province before providing the Executive Director-Registrar proof that the registrant was not subject to any disciplinary findings and has no disciplinary matters pending in any jurisdiction in which the registrant practised during such absence is guilty of an offence.

45 (1) Except as provided in this Act or the regulations, no person, other than a registrant, shall

(a) publicly or privately, for hire, gain or hope of reward, practice or offer to practice practical nursing;

(b) hold himself or herself out in any way to be entitled to practise practical nursing;

(c) use the title "Licensed Practical Nurse" or "Practical Nurse" or assume any title or description implying or designed to lead the public to believe that that person is entitled to practise practical nursing; or

(d) use the designation "L.P.N.", "LPN", "P.N." or "PN" either alone or in combination with other words, letters or description, to imply that the person is entitled to practice practical nursing.

(2) No person is entitled to receive a fee, reward or remuneration for professional services rendered to any person in the practice of practical nursing unless registered and licensed at the time the services were provided.

46 (1) Every person who

(a) knowingly furnishes false information in any application under this Act or in any statement required to be furnished under this Act or the regulations; or

(b) otherwise violates this Act or the regulations,

is guilty of an offence and liable on summary conviction to a fine of not more than two thousand dollars or to imprisonment for a term of not more than six months, or to both.

(2) The *Summary Proceedings Act* applies in addition to any other penalty otherwise provided for in this Act or the

regulations.

(3) All fines and penalties payable under this Act as a result of a prosecution by or on behalf of the College belong to the College.

(4) Any information to be laid pursuant to this Act or the *Summary Proceedings Act* may be laid by the Executive Director-Registrar or any person authorized by the Board.

47 (1) In a prosecution for an offence contrary to this Act or the regulations, the onus of proof that a person accused of an offence has the right to practise practical nursing, or that a person comes within any of the exemptions provided by this Act, is on the person accused.

(2) Where a violation of this Act or the regulations by a person who does not have the right to practise practical nursing continues for more than one day, the offender is guilty of a separate offence for each day that the violation continues.

(3) For the purpose of this Act, proof of the performance of one act in the practice of practical nursing on one occasion is sufficient to establish that a person has engaged in the practice of practical nursing.

48 Nothing in this Act applies to or prevents

(a) the domestic administration of family remedies;

(b) the practice of the religious tenets or general beliefs of any religious organization;

(c) the furnishing of first aid or emergency assistance in the case of emergency, if such aid or assistance is given without hire, gain or hope of reward;

(d) the practice of chiropractic by a person who is registered pursuant to the *Chiropractic Act*;

(e) the practice of dentistry or dental surgery by a person who is registered pursuant to the *Dental Act*;

(f) the practice of dental technology by a person registered pursuant to *Dental Technicians Act*;

(g) the practice of denturology by a person who is licensed pursuant to the *Denturist Act*;

(h) the practice of a dispensing optician by a person who is registered pursuant to the *Dispensing Opticians Act*;

(i) the practice of medicine by a person who is registered pursuant to the *Medical Act*;

(j) the practice of medical laboratory technology by a person registered pursuant to the *Medical Laboratory Technology Act*;

(k) the practice of radiological technology by a person registered pursuant to the *Medical Radiation Technologists Act*;

(l) the practice of occupational therapy by a person who is licensed pursuant to the *Occupational Therapists Act*;

(m) the practice of optometry by a person who is licensed pursuant to the *Optometry Act*;

(n) the practice of pharmacy by a person who is registered pursuant to the *Pharmacy Act*;

(o) the practice of physiotherapy by a person who is licensed pursuant to the *Physiotherapy Act*;

(p) the practice of dietetics by a person who is registered pursuant to the *Professional Dietitians Act*;

(q) the practice of psychology by a person who is licensed pursuant to the *Psychologists Act*; or

(r) the practice of nursing by a person registered pursuant to the *Registered Nurses Act*.

49 (1) Where a registrant whose licence to practise has been suspended pursuant to this Act or the regulations does or attempts to do anything contrary to this Act or the regulations, the doing of such thing may be restrained by an injunction of the court at the instance of the Board.

(2) Where a person other than a registrant does or attempts to do anything contrary to this Act, the doing of such thing may be restrained by an injunction of the court at the instance of the Board.

PROFESSIONAL CONDUCT

50 (1) The object of the professional-conduct process is the protection of the public and the preservation of the integrity of the nursing profession.

(2) The professional-conduct process shall seek to inhibit professional misconduct, conduct unbecoming the profession, incompetence and incapacity by investigating, on its own initiative or on the complaints of others, alleged instances of such misconduct, conduct unbecoming a licensed practical nurse, incompetence or incapacity and, when appropriate, disposing of the matter or matters in accordance with this Act and the regulations.

(3) The professional-conduct process shall take into account the potential for rehabilitation of the respondent, except where it is considered prejudicial to the attainment of the objects set out in subsections (1) and (2).

51 (1) The Board shall appoint a complaints committee or committees.

(2) A complaints committee shall

(a) assess complaints and make a determination concerning a registrant pursuant to the Act and the regulations; and

(b) perform such other duties as directed by the Board or prescribed by the Act or the regulations.

(3) A complaints committee shall be composed of at least three persons.

(4) A complaints committee shall

(a) have a chair appointed by the Board who is a member or former member of the Board;

(b) have as a member at least one person who is a member or former member of the Board and a registrant; and

(c) have as a member at least one public representative, who may be a member or former member of the Board.

(5) Notwithstanding subsection (4), any three members of a complaints committee constitute a quorum.

(6) The Board may appoint additional members to a complaints committee who are registrants of the College but who need not be members or former members of the Board.

(7) All decisions of a complaints committee require the vote of a majority of the members of the committee.

(8) Where a proceeding is commenced before the complaints committee, and the term of office of any person sitting on the complaints committee has expired, such person may remain as a member of the complaints committee until the proceedings are concluded.

52 (1) A complaint may be initiated by

(a) any body corporate or association;

(b) the Executive Director-Registrar; or

(c) any other person.

(2) Upon receipt of a complaint, an investigator shall conduct an investigation in accordance with the regulations.

(3) Upon concluding an investigation, the investigator shall prepare a written report of the investigation and forward it to a complaints committee.

53 (1) Upon receipt of the results of an investigation from an investigator, a complaints committee shall dispose of the matter in accordance with the regulations.

(2) The complaints committee shall give its decision in writing and shall send a copy of the written decision, by registered mail or personal service, to the respondent, the complainant and such other persons as the complaints committee determines.

(3) In a proceeding before the complaints committee, a respondent has the right to

(a) be represented by legal counsel or another representative;

(b) disclosure of the complaint, any written reports of the investigator provided to the complaints committee and any other document produced or received by the complaints committee; and

(c) a reasonable opportunity to present a response and make submissions.

54 (1) Notwithstanding anything contained in this Act, a complaints committee, acting in good faith and in the public interest, may, at its discretion, without a hearing, direct the Executive Director-Registrar to suspend a licence or to impose restrictions on a respondent's licence, pending or following the completion of an investigation until the suspension or restrictions are lifted, superseded or annulled by a complaints committee or a discipline committee, as the case may be.

(2) The registrant shall receive forthwith notice in writing, with reasons, of a decision made pursuant to subsection (1).

(3) Subject to a determination pursuant to subsection (5), a decision pursuant to subsection (1) continues in force until final resolution by a discipline committee, which shall occur without undue delay.

(4) A registrant who receives written notice pursuant to subsection (2) may request, in writing, an opportunity to meet with the complaints committee.

(5) Where a request is received pursuant to subsection (4), the complaints committee

(a) shall provide an opportunity for the registrant to meet with the committee within ten days of the written request; and

(b) after meeting with the registrant, may confirm, vary, or terminate the suspension or restrictions imposed pursuant to subsection (1).

(6) At a meeting with the complaints committee pursuant to clause (5)(a), the registrant has the right to

(a) be represented by legal counsel, a union representative or another representative at the expense of the registrant;

(b) disclosure of the complaint, any written report of an investigator provided to the committee and any other document produced or received by the committee; and

(c) a reasonable opportunity to present a response and make submissions.

55 Notwithstanding anything contained in this Act, where a decision is made pursuant to subsection 54(1), then, subject to subsection 54(5), a discipline committee shall be appointed pursuant to subsection 56(1) to proceed with a hearing to

determine whether the registrant is guilty of charges relating to a disciplinary matter.

56 (1) A discipline committee shall be appointed for the purpose of hearing any charges relating to a disciplinary matter against a registrant when a disciplinary matter is referred, in whole or in part, to a discipline committee.

(2) A discipline committee shall be composed of at least three persons, of whom one member shall be appointed by the Board as the chair.

(3) A discipline committee shall have as members

(a) at least one public representative, who is a member of the Board; and

(b) at least two other members of the Board, one of whom shall be a registrant.

(4) Notwithstanding subsection (3), three members of a discipline committee constitute a quorum.

(5) Where a proceeding is commenced before a discipline committee, and the term of office of any person sitting on the discipline committee has expired, such person may remain part of the discipline committee until the proceeding is concluded.

(6) All decisions by a discipline committee require the vote of a majority of members of the committee.

57 No person on a discipline committee may concurrently serve on a complaints committee.

58 Failure of one or more committee members to receive any notice of a meeting shall not invalidate the proceedings and nothing shall preclude committee members from waiving notice of meetings.

59 (1) Where a complaints committee refers a matter to a discipline committee, the discipline committee shall, fix a date, time and place for holding a hearing, which shall commence not later than sixty days, unless otherwise agreed upon by both parties, from the date of the referral by the complaints committee.

(2) A notice of hearing, containing such information as required by

the regulations, shall be forwarded to the respondent and the complainant at least thirty days prior to the hearing.

60 Where a complaints committee refers a matter to a discipline committee, the complaints committee, before the commencement of a hearing by the discipline committee, may enter into a settlement proposal with the respondent, which proposal shall be dealt with in accordance with the regulations.

61 Each member of a discipline committee has all the rights, powers, and privileges of a commissioner appointed pursuant to the *Public Inquiries Act*.

62 (1) A hearing held by the discipline committee shall be conducted in accordance with the regulations.

(2) In a proceeding before the discipline committee, the parties have the right to

(a) be represented by legal counsel or another representative;

(b) the opportunity to present evidence and make submissions, including the right to cross-examine witnesses; and

(c) receive written reasons for a decision within a reasonable time.

(3) Evidence is not admissible before the discipline committee unless the opposing party has been given at least ten days before the hearing

(a) in the case of written or documentary evidence, an opportunity to examine the evidence;

(b) in the case of evidence of an expert, a copy of the expert's written report or, if there is no written report, a written summary of the evidence; and

(c) in the case of evidence of a witness, the identity of the witness.

(4) Notwithstanding subsection (3), the discipline committee may, in its discretion, allow the introduction of evidence that would be otherwise inadmissible under subsection (3) and may make directions it considers necessary to ensure that a party is not prejudiced.

(5) The College shall make a reasonable effort to disclose the evidence upon which it intends to rely in sufficient time for the respondent to prepare for the hearing and failure to disclose the evidence entitles the respondent to an adjournment in order to so prepare.

63 Where a discipline committee finds professional misconduct, conduct unbecoming the profession, incompetence or incapacity, the discipline committee shall dispose of the matter or matters in accordance with the regulations.

64 (1) Where a licence to practise is revoked, suspended or restricted by the discipline committee, or where the discipline committee imposes conditions on a licence to practise,

(a) the Executive Director-Registrar shall make the appropriate entries in the Register of the College and on the licence;

(b) the registrant's name, address, registration number, provision of this Act or the regulations under which the disciplinary finding has been made, the date of the decision and the decision or summary of the decision shall be published in an official publication as may be determined by the discipline committee;

(c) the Executive Director-Registrar shall notify registering bodies in other Canadian practical-nursing jurisdictions, as well as the original jurisdiction and other known jurisdictions where the registrant has worked, if restrictions, conditions, a suspension or revocation is ordered;

(d) the Executive Director-Registrar shall notify the current employer of the registrant if deemed necessary by the discipline committee; and

(e) the discipline committee, in its discretion, may inform or direct the Executive Director-Registrar to inform other persons of the respondent's name, registration number and the reasons for the disciplinary finding.

(2) Where a reprimand has been issued and the time for filing of an appeal has expired, or the appeal has been disposed of, the discipline committee, in its discretion, may inform, or direct the Executive Director-Registrar to inform, other persons of the respondent's name, registration number and the reasons for the reprimand.

65 (1) Where the period of suspension of a registrant has expired, the conditions imposed on the registrant have been satisfied or the restrictions imposed on the registrant have been removed, the Executive Director-Registrar shall restore the licence to the registrant in the form it existed prior to the decision of the discipline committee, if the registrant otherwise meets the criteria for the issuing of a licence, but where the licence has expired, the registrant shall pay the prescribed fee for renewal of the licence before its re-issue.

(2) Where action has been taken pursuant to subsection (1),

(a) the Executive Director-Registrar shall make the appropriate entries in the Register of the College;

(b) where registering bodies in other Canadian nursing jurisdictions had previously been informed of the suspension, conditions or restrictions, the Executive Director-Registrar shall notify such registering bodies of the lifting of such suspension, conditions or restrictions;

(c) the Executive Director-Registrar shall notify the current employer of the registrant if deemed necessary by the discipline committee; and

(d) a discipline committee, in its discretion, may inform or direct the Executive Director-Registrar to inform other persons of the lifting of the suspension, conditions or restrictions.

66 For the purposes of the execution of their duties under this Act, the College, a complaints committee or a discipline committee may retain such legal or other assistance as the College, a complaints committee or a discipline committee may think necessary or proper, and such costs of such legal or other assistance may be included, in whole or in part, as costs ordered by a discipline committee.

67 (1) A registrant may appeal on any point of law from the findings of a discipline committee to the Nova Scotia Court of Appeal.

(2) The notice of appeal shall be filed at the Nova Scotia Court of Appeal and served upon the other party not later than thirty days after the decision of a discipline committee.

(3) The record on appeal from the findings of a discipline committee consists of a copy of the transcript of the proceedings, the decision of the committee and the evidence before the discipline committee certified by the chair of the discipline committee.

(4) The *Civil Procedure Rules*, governing appeals from the Supreme Court of Nova Scotia to the Nova Scotia Court of Appeal, that are not inconsistent with this Act, apply *mutatis mutandis* to appeals to the Court of Appeal pursuant to this Section.

(5) Where a matter is appealed to the Nova Scotia Court of Appeal pursuant to this Section, the decision of the discipline committee takes effect immediately unless the Court of Appeal grants a stay of any order made pursuant to this Act where, in its discretion, it deems fit.

GENERAL

68 (1) No action for damages lies against the College, the Board, members of the Board, committees or subcommittees of the College or Board, or members thereof, or the Executive Director-Registrar, officers, agents or employees of the College

(a) for any act or failure to act, or any proceeding initiated or taken, in good faith under this Act, or in carrying out the duties or obligations under this Act; or

(b) for any decision, order or resolution made or enforced in good faith under this Act.

(2) No action lies against any person for the disclosure of any information or any document or anything therein pursuant to this Act unless such disclosure is made with malice.

(3) No registrant, or any officer, agent, or employee thereof is personally liable for any of the debts or liabilities of the College unless such person expressly agrees to be liable.

69 All regulations made pursuant to this Act are regulations within the meaning of the *Regulations Act*.

70 (1) For greater certainty,

(a) a complaint made pursuant to the former Act shall continue to be proceeded with in accordance with this Act as nearly as circumstances permit; and

(b) in respect of that complaint, the Credentials Committee appointed pursuant to the former Act and its regulations is deemed to be a complaints committee appointed pursuant to this Act.

(2) Nothing in subsection (1) precludes a complaint made pursuant to the former Act being investigated by a complaints committee appointed pursuant to this Act and, in such case, the Credentials Committee appointed pursuant to the former

Act ceases to have any jurisdiction respecting that complaint.

71 (1) Upon the coming into force of this Act, any matter pending before the Board pursuant to the former Act shall, where not set down for an inquiry to commence within sixty days of the coming into force of this Act, be transferred to a discipline committee appointed pursuant to this Act for hearing and determination, but otherwise shall be heard and determined by the Board pursuant to the former Act.

(2) Notwithstanding subsection (1), the parties may agree that a matter pending be transferred to a discipline committee appointed pursuant to this Act.

(3) The Board inquiry process pursuant to the former Act shall be continued until all matters pending before it at the coming into force of this Act and not transferred to a hearing committee appointed pursuant to this Act have been finally decided.

72 The former Act is repealed.

73 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.

