



BILL NO. 127

Government Bill

*2nd Session, 60th General Assembly
Nova Scotia
57 Elizabeth II, 2008*

An Act Respecting the Protection of Confidential Disciplinary Proceedings of Health Professions

CHAPTER 3
ACTS OF 2008

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
MAY 27, 2008**

The Honourable Chris A. d'Entremont
Minister of Health

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

This page is intentionally blank.

An Act Respecting the Protection of Confidential Disciplinary Proceedings of Health Professions

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Health Professions Disciplinary Proceedings Protection (2008) Act*.

2 Chapter 4 of the Acts of 1999 (2nd Session), the *Chiropractic Act*, is amended by adding immediately after Section 60 the following Section:

60A (1) In this Section,

(a) “civil proceeding” means any proceeding of a civil nature other than an arbitration proceeding or a proceeding before an adjudicative tribunal, board or commission or inquiry; and

(b) “legal proceeding” means any civil proceeding, discovery, inquiry, proceeding before a tribunal, board or commission or arbitration, in which evidence may be given, and includes an action or proceeding for the imposition of punishment by fine, penalty or imprisonment for the violation of a Provincial enactment, but does not include any proceeding or hearing conducted pursuant to this Act or the regulations.

(2) A witness in any legal proceeding, whether a party to the proceeding or not, is excused from answering any question as to any proceedings of an investigation committee or a hearing committee, and is excused from producing any report, statement, memorandum, recommendation, document or information prepared for the purpose of the investigative, disciplinary and hearing processes of the College, including any information gathered in the course of an investigation or produced for an investigation committee, a hearing committee or staff members of the College.

(3) Subsection (2) does not apply to documents or records that have been made available to the public by the College.

(4) Unless otherwise determined by a court of competent jurisdiction, a decision of an investigation committee or a hearing committee is not admissible in a civil proceeding other than in an appeal or a review pursuant to this Act.

3 Chapter 3 of the Acts of 1992, the *Dental Act*, is amended by adding immediately after Section 34 the following Section:

34A (1) In this Section,

(a) “civil proceeding” means any proceeding of a civil nature other than an arbitration proceeding or a proceeding before an adjudicative tribunal, board or commission or inquiry; and

(b) “legal proceeding” means any civil proceeding, discovery, inquiry, proceeding before a tribunal, board or commission or arbitration, in which evidence may be given, and includes an action or proceeding for

the imposition of punishment by fine, penalty or imprisonment for the violation of a Provincial enactment, but does not include any proceeding or hearing conducted pursuant to this Act or the regulations.

(2) A witness in any legal proceeding, whether a party to the proceeding or not, is excused from answering any question as to any proceedings of the Complaints Committee or the Discipline Committee, and is excused from producing any report, statement, memorandum, recommendation, document or information prepared for the purpose of the investigative, disciplinary and hearing processes of the Board, including any information gathered in the course of an investigation or produced for the Complaints Committee, the Discipline Committee or staff members of the Board.

(3) Subsection (2) does not apply to documents or records that have been made available to the public by the Board.

(4) Unless otherwise determined by a court of competent jurisdiction, a decision of the Complaints Committee or the Discipline Committee is not admissible in a civil proceeding other than in an appeal or a review pursuant to this Act.

4 Chapter 29 of the Acts of 2007, the *Dental Hygienists Act*, is amended by adding immediately after Section 60 the following Section:

60A (1) In this Section,

(a) “civil proceeding” means any proceeding of a civil nature other than an arbitration proceeding or a proceeding before an adjudicative tribunal, board or commission or inquiry; and

(b) “legal proceeding” means any civil proceeding, discovery, inquiry, proceeding before a tribunal, board or commission or arbitration, in which evidence may be given, and includes an action or proceeding for the imposition of punishment by fine, penalty or imprisonment for the violation of a Provincial enactment, but does not include any proceeding or hearing conducted pursuant to this Act or the regulations.

(2) A witness in any legal proceeding, whether a party to the proceeding or not, is excused from answering any question as to any proceedings of the Investigation Committee or the Hearing Committee, and is excused from producing any report, statement, memorandum, recommendation, document or information prepared for the purpose of the investigative, disciplinary and hearing processes of the College, including any information gathered in the course of an investigation or produced for the Investigation Committee, the Hearing Committee or staff members of the College.

(3) Subsection (2) does not apply to documents or records that have been made available to the public by the College.

(4) Unless otherwise determined by a court of competent jurisdiction, a decision of the Investigation Committee or the Hearing Committee is not admissible in a civil proceeding other than in an appeal or a review pursuant to this Act.

5 Chapter 39 of the Acts of 2005, the *Dispensing Opticians Act*, is amended by adding immediately after Section 36 the following Section:

36A (1) In this Section,

(a) “civil proceeding” means any proceeding of a civil nature other than an arbitration proceeding or a proceeding before an adjudicative tribunal, board or commission or inquiry; and

(b) “legal proceeding” means any civil proceeding, discovery, inquiry, proceeding before a tribunal, board or commission or arbitration, in which evidence may be given, and includes an action or proceeding for the imposition of punishment by fine, penalty or imprisonment for the violation of a Provincial enactment, but does not include any proceeding or hearing conducted pursuant to this Act or the regulations.

(2) A witness in any legal proceeding, whether a party to the proceeding or not, is excused from answering any question as to any proceedings of the Complaints Committee or the Professional Conduct Committee, and is excused from producing any report, statement, memorandum, recommendation, document or information prepared for the purpose of the investigative, disciplinary and hearing processes of the College, including any information gathered in the course of an investigation or produced for the Complaints Committee, the Professional Conduct Committee or staff members of the College.

(3) Subsection (2) does not apply to documents or records that have been made available to the public by the College.

(4) Unless otherwise determined by a court of competent jurisdiction, a decision of the Complaints Committee or the Professional Conduct Committee is not admissible in a civil proceeding other than in an appeal or a review pursuant to this Act.

6 Subsection 66A(1) of Chapter 10 of the Acts of 1995-96, the *Medical Act*, as enacted by Chapter 44 of the Acts of 2007, is amended by striking out “of” in the third line and substituting “or”.

7 Chapter 8 of the Acts of 2000, the *Medical Laboratory Technology Act*, is amended by adding immediately after Section 66 the following Section:

66A (1) In this Section,

(a) “civil proceeding” means any proceeding of a civil nature other than an arbitration proceeding or a proceeding before an adjudicative tribunal, board or commission or inquiry; and

(b) “legal proceeding” means any civil proceeding, discovery, inquiry, proceeding before a tribunal, board or commission or arbitration, in which evidence may be given, and includes an action or proceeding for the imposition of punishment by fine, penalty or imprisonment for the violation of a Provincial enactment, but does not include any proceeding or hearing conducted pursuant to this Act or the regulations.

(2) A witness in any legal proceeding, whether a party to the proceeding or not, is excused from answering any question as to any proceedings of an investigation committee or a hearing committee, and is excused from producing any report, statement, memorandum, recommendation, document or information prepared for the purpose of the investigative, disciplinary and hearing processes of the College, including any information gathered in the course of an investigation or produced for an investigation committee, a hearing committee or staff members of the College.

(3) Subsection (2) does not apply to documents or records that have been made available to the public by the College.

(4) Unless otherwise determined by a court of competent jurisdiction, a decision of an investigation committee or a hearing committee is not admissible in a civil proceeding other than in an appeal or a review pursuant to this Act.

8 Chapter 18 of the Acts of 2006, the *Midwifery Act*, is amended by adding immediately after Section 52 the following Section:

52A (1) In this Section,

(a) “civil proceeding” means any proceeding of a civil nature other than an arbitration proceeding or a proceeding before an adjudicative tribunal, board or commission or inquiry; and

(b) “legal proceeding” means any civil proceeding, discovery, inquiry, proceeding before a tribunal, board or commission or arbitration, in which evidence may be given, and includes an action or proceeding for the imposition of punishment by fine, penalty or imprisonment for the violation of a Provincial enactment, but does not include any proceeding or hearing conducted pursuant to this Act or the regulations.

(2) A witness in any legal proceeding, whether a party to the proceeding or not, is excused from answering any question as to any proceedings of the Registrar or a hearing panel, and is excused from producing any report, statement, memorandum, recommendation, document or information prepared for the purpose of the investigative, disciplinary and hearing processes of the Council, including any information gathered in the course of an investigation or produced for the Registrar, a hearing panel or staff members of the Council.

(3) Subsection (2) does not apply to documents or records that have been made available to the public by the Council.

(4) Unless otherwise determined by a court of competent jurisdiction, a decision of the Registrar or a hearing panel is not admissible in a civil proceeding other than in an appeal or a review pursuant to this Act.

9 Chapter 21 of the Acts of 1998, the *Occupational Therapists Act*, is amended by adding immediately after Section 60 the following Section:

60A (1) In this Section,

(a) “civil proceeding” means any proceeding of a civil nature other than an arbitration proceeding or a proceeding before an adjudicative tribunal, board or commission or inquiry; and

(b) “legal proceeding” means any civil proceeding, discovery, inquiry, proceeding before a tribunal, board or commission or arbitration, in which evidence may be given, and includes an action or proceeding for the imposition of punishment by fine, penalty or imprisonment for the violation of a Provincial enactment, but does not include any proceeding or hearing conducted pursuant to this Act or the regulations.

(2) A witness in any legal proceeding, whether a party to the proceeding or not, is excused from answering any question as to any proceedings of an investigation committee or a hearing committee, and is excused from producing any report, statement, memorandum, recommendation, document or information prepared for the purpose of the investigative, disciplinary and hearing processes of the College, including any information gathered in the course of an investigation or produced for an investigation committee, a hearing committee or staff members of the College.

(3) Subsection (2) does not apply to documents or records that have been made available to the public by the College.

(4) Unless otherwise determined by a court of competent jurisdiction, a decision of an investigation committee or a hearing committee is not admissible in a civil proceeding other than in an appeal or a review pursuant to this Act.

10 Chapter 43 of the Acts of 2005, the *Optometry Act*, is amended by adding immediately after Section 44 the following Section:

44A (1) In this Section,

(a) “civil proceeding” means any proceeding of a civil nature other than an arbitration proceeding or a proceeding before an adjudicative tribunal, board or commission or inquiry; and

(b) “legal proceeding” means any civil proceeding, discovery, inquiry, proceeding before a tribunal, board or commission or arbitration, in which evidence may be given, and includes an action or proceeding for the imposition of punishment by fine, penalty or imprisonment for the violation of a Provincial enactment, but does not include any proceeding or hearing conducted pursuant to this Act or the regulations.

(2) A witness in any legal proceeding, whether a party to the proceeding or not, is excused from answering any question as to any proceedings of a complaints committee or a hearing committee, and is excused from producing any report, statement, memorandum, recommendation, document or information prepared for the purpose of the investigative, disciplinary and hearing processes of the College, including any information gathered in the course of an investigation or produced for a complaints committee, a hearing committee or staff members of the College.

(3) Subsection (2) does not apply to documents or records that have been made available to the public by the College.

(4) Unless otherwise determined by a court of competent jurisdiction, a decision of a complaints committee or a hearing committee is not admissible in a civil proceeding other than in an appeal or a review pursuant to this Act.

11 Chapter 10 of the Acts of 2005, the *Paramedics Act*, is amended by adding immediately after Section 65 the following Section:

65A (1) In this Section,

(a) “civil proceeding” means any proceeding of a civil nature other than an arbitration proceeding or a proceeding before an adjudicative tribunal, board or commission or inquiry; and

(b) “legal proceeding” means any civil proceeding, discovery, inquiry, proceeding before a tribunal, board or commission or arbitration, in which evidence may be given, and includes an action or proceeding for the imposition of punishment by fine, penalty or imprisonment for the violation of a Provincial enactment, but does not include any proceeding or hearing conducted pursuant to this Act or the regulations.

(2) A witness in any legal proceeding, whether a party to the proceeding or not, is excused from answering any question as to any proceedings of an investigation committee or a hearing committee, and is excused from producing any report, statement, memorandum, recommendation, document or information prepared for the purpose of the investigative, disciplinary and hearing processes of the College, including any information gathered in the course of an investigation or produced for an investigation committee, a hearing committee or staff members of the College.

(3) Subsection (2) does not apply to documents or records that have been made available to the public by the College.

(4) Unless otherwise determined by a court of competent jurisdiction, a decision of an investigation committee or a hearing committee is not admissible in a civil proceeding other than in an appeal or a review pursuant to this Act.

12 Chapter 36 of the Acts of 2001, the *Pharmacy Act*, is amended by adding immediately after Section 53 the following Section:

53A (1) In this Section,

(a) “civil proceeding” means any proceeding of a civil nature other than an arbitration proceeding or a proceeding before an adjudicative tribunal, board or commission or inquiry; and

(b) “legal proceeding” means any civil proceeding, discovery, inquiry, proceeding before a tribunal, board or commission or arbitration, in which evidence may be given, and includes an action or proceeding for the imposition of punishment by fine, penalty or imprisonment for the violation of a Provincial enactment, but does not include any proceeding or hearing conducted pursuant to this Act or the regulations.

(2) A witness in any legal proceeding, whether a party to the proceeding or not, is excused from answering any question as to any proceedings of an investigation committee or a hearing committee, and is excused from producing any report, statement, memorandum, recommendation, document or information prepared for the purpose of the investigative, disciplinary and hearing processes of the College, including any information gathered in the course of an investigation or produced for an investigation committee, a hearing committee or staff members of the College.

(3) Subsection (2) does not apply to documents or records that have been made available to the public by the College.

(4) Unless otherwise determined by a court of competent jurisdiction, a decision of an investigation committee or a hearing committee is not admissible in a civil proceeding other than in an appeal or a review pursuant to this Act.

13 Chapter 22 of the Acts of 1998, the *Physiotherapy Act*, is amended by adding immediately after Section 60 the following Section:

60A (1) In this Section,

(a) “civil proceeding” means any proceeding of a civil nature other than an arbitration proceeding or a proceeding before an adjudicative tribunal, board or commission or inquiry; and

(b) “legal proceeding” means any civil proceeding, discovery, inquiry, proceeding before a tribunal, board or commission or arbitration, in which evidence may be given, and includes an action or proceeding for the imposition of punishment by fine, penalty or imprisonment for the violation of a Provincial enactment, but does not include any proceeding or hearing conducted pursuant to this Act or the regulations.

(2) A witness in any legal proceeding, whether a party to the proceeding or not, is excused from answering any question as to any proceedings of an investigation committee or a hearing committee, and is excused from producing any report, statement, memorandum, recommendation, document or information prepared for the purpose of the investigative, disciplinary and hearing processes of the College, including any information gathered in the course of an investigation or produced for an investigation committee, a hearing committee or staff members of the College.

(3) Subsection (2) does not apply to documents or records that have been made available to the public by the College.

(4) Unless otherwise determined by a court of competent jurisdiction, a decision of an investigation committee or a hearing committee is not admissible in a civil proceeding other than in an appeal or a review pursuant to this Act.

14 Chapter 361 of the Revised Statutes, 1989, the *Professional Dietitians Act*, is amended by adding immediately after Section 16 the following Section:

16A (1) In this Section,

(a) “civil proceeding” means any proceeding of a civil nature other than an arbitration proceeding or a proceeding before an adjudicative tribunal, board or commission or inquiry; and

(b) “legal proceeding” means any civil proceeding, discovery, inquiry, proceeding before a tribunal, board or commission or arbitration, in which evidence may be given, and includes an action or proceeding for the imposition of punishment by fine, penalty or imprisonment for the violation of a Provincial enactment, but does not include any proceeding or hearing conducted pursuant to this Act or the regulations.

(2) A witness in any legal proceeding, whether a party to the proceeding or not, is excused from answering any question as to any proceedings of an investigation committee or a hearing committee, and is excused from producing any report, statement, memorandum, recommendation, document or information prepared for the purpose of the investigative, disciplinary and hearing processes of the Board, including any information gathered in the course of an investigation or produced for an investigation committee, a hearing committee or staff members of the Board.

(3) Subsection (2) does not apply to documents or records that have been made available to the public by the Board.

(4) Unless otherwise determined by a court of competent jurisdiction, a decision of an investigation committee or a hearing committee is not admissible in a civil proceeding other than in an appeal or a review pursuant to this Act.

15 Chapter 32 of the Acts of 2000, the *Psychologists Act*, is amended by adding immediately after Section 46 the following Section:

46A (1) In this Section,

(a) “civil proceeding” means any proceeding of a civil nature other than an arbitration proceeding or a proceeding before an adjudicative tribunal, board or commission or inquiry; and

(b) “legal proceeding” means any civil proceeding, discovery, inquiry, proceeding before a tribunal, board or commission or arbitration, in which evidence may be given, and includes an action or proceeding for the imposition of punishment by fine, penalty or imprisonment for the violation of a Provincial enactment, but does not include any proceeding or hearing conducted pursuant to this Act or the regulations.

(2) A witness in any legal proceeding, whether a party to the proceeding or not, is excused from answering any question as to any proceedings of an investigation committee or a hearing committee, and is excused from producing any report, statement, memorandum, recommendation, document or information prepared for the purpose of the investigative, disciplinary and hearing processes of the Board, including any information gathered in the course of an investigation or produced for an investigation committee, a hearing committee or staff members of the Board.

(3) Subsection (2) does not apply to documents or records that have been made available to the public by the Board.

(4) Unless otherwise determined by a court of competent jurisdiction, a decision of an investigation committee or a hearing committee is not admissible in a civil proceeding other than in an appeal or a review pursuant to this Act.

16 This Act has effect on and after such day as the Governor in Council orders and declares by proclamation.