



# **BILL NO. 70**

*Government Bill*

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*5th Session, 61st General Assembly  
Nova Scotia  
62 Elizabeth II, 2013*

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## **An Act Respecting the Practice of Medical Imaging and Radiation Therapy Professionals**

CHAPTER 7  
ACTS OF 2013

**AS ASSENTED TO BY THE ADMINISTRATOR OF THE PROVINCE  
MAY 10, 2013**

The Honourable David A. Wilson  
*Minister of Health and Wellness*

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

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## **An Act Respecting the Practice of Medical Imaging and Radiation Therapy Professionals**

Be it enacted by the Governor and Assembly as follows:

*Act.* **1** This Act may be cited as the *Medical Imaging and Radiation Therapy Professionals Act*.

**2** In this Act,

(a) “appellant” means a person who brings an appeal to the Registration Appeal Committee;

(b) “approved education program” means a diploma or degree program in a discipline for which a licence is sought, that is accredited for the education of medical imaging technologists or radiation therapists by the Canadian Medical Association;

(c) “Association” means the Nova Scotia Association of Medical Radiation Technologists;

(d) “Board” means the Board of the College;

(e) “by-law” means a by-law of the College;

(f) “College” means the Nova Scotia College of Medical Imaging and Radiation Therapy Professionals;

(g) “competence” means the ability to integrate and apply the knowledge, skills, attitude and judgement required to practise safely, ethically and professionally in a designated role and practice setting and includes both entry-to-practice and continuing competence;

(h) “complaint” means a notice in writing indicating possible professional misconduct, conduct unbecoming the profession, incompetence or incapacity of a registrant, a former registrant, a professional corporation or the employees of a professional corporation, or any similar complaint, report or allegation initiated by the Registrar or referred pursuant to this Act or the regulations;

(i) “conduct unbecoming the profession” means conduct in a registrant’s personal or private capacity that tends to bring discredit upon the profession;

(j) “diagnostic medical sonographer” means a person holding a licence endorsed in the discipline of diagnostic medical sonography;

(k) “diagnostic medical sonography” means the following aspects of the practice of medical imaging technology:

(i) the application of high frequency sound waves to perform procedures and produce high quality diagnostic images,

(ii) the education, advocacy and application of ultrasound field safety in the protection of patients, health care professionals and the public,

(iii) the assessment of patients before, during and after the application of ultrasound,

(iv) the use of pharmaceuticals in the performance of diagnostic interventions to enhance images,

(v) the application of knowledge, skills and judgement in the evaluation and interpretation of diagnostic images distinguishing artifact from pathological process and communication of results to the reporting physician,

(vi) such other practices and procedures within the scope of practice of diagnostic medical sonography as taught in an approved education program, and

(vii) such other practices and procedures as set out in the regulations;

(l) “discipline” means the practice areas of magnetic resonance technology, nuclear medicine technology, radiation therapy, radiological technology, diagnostic medical sonography or any other discipline set out in the regulations;

(m) “electronic means” means the use of telephone, fax, television, video conferencing, cable, Internet, intranet or any other form of electronic or computerized communication;

(n) “former Act” means Chapter 280 of the Revised Statutes, 1989, the *Medical Radiation Technologists Act*;

(o) “hearing” means a process before the Professional Conduct Committee following the issuance of a notice of hearing, in which the parties lead evidence and make submissions to the Professional Conduct Committee, but does not include the consideration by the Professional Conduct Committee of a settlement proposal or an application for consent revocation, and does not include any hearing or proceeding before the Investigative Committee;

(p) “incapacity” means the status whereby a registrant has or had a medical, physical, mental or emotional condition, disorder or addiction that renders or rendered the registrant unable to practise with competence, or that may endanger or have endangered the health or safety of individuals;

(q) “incompetence”, in relation to a respondent, means the display of lack of knowledge, skill or judgement in the respondent’s care of a patient or delivery of professional services that, having regard to all the circumstances, rendered it unsafe for the respondent to practise at the time of such care of the patient or delivery of professional services or that renders it unsafe for the respondent to continue in practice without remedial assistance;

(r) “individual scope of practice” means the roles, functions and accountabilities that an individual is educated, competent and authorized to perform;

(s) “Investigative Committee” means the Investigative Committee established by this Act;

(t) “investigator” means a person designated by the Registrar to conduct or supervise an investigation into a complaint;

(u) “judge” means a judge of the Supreme Court of Nova Scotia;

(v) “legal proceeding” means any civil proceeding, discovery, inquiry, proceeding before any tribunal, board or commission or arbitration, in which evidence is or may be given, and includes an action or proceeding for the imposition of punishment by fine, pen-

alty 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;

(w) “licence” means a licence to practise issued in accordance with this Act and the regulations;

(x) “licensing sanction” means

(i) the imposition of conditions or restrictions on a licence by the Investigative Committee or the Professional Conduct Committee or an equivalent body from another jurisdiction,

(ii) a consensual reprimand ordered by the Investigative Committee or its equivalent from another jurisdiction,

(iii) a reprimand issued by the Professional Conduct Committee or its equivalent from another jurisdiction,

(iv) a suspension of a licence by the Investigative Committee or the Professional Conduct Committee or an equivalent body from another jurisdiction, or

(v) a revocation of registration by the Professional Conduct Committee or its equivalent from another jurisdiction;

(y) “magnetic resonance technologist” means a person holding a licence endorsed in the discipline of magnetic resonance technology;

(z) “magnetic resonance technology” means the following aspects of the practice of medical imaging technology:

(i) the use of magnetic fields to obtain pulse sequence data sets and produce high quality diagnostic images,

(ii) the education, advocacy and application of magnetic field safety in the protection of patients, health care professionals and the public,

(iii) the assessment of patients before, during and after the application of magnetic resonance imaging,

(iv) the use of pharmaceuticals in the performance of diagnostic interventions to enhance magnetic resonance images,

(v) the application of knowledge, skills and judgement in the evaluation and interpretation of diagnostic images,

(vi) such other practices and procedures within the scope of practice of magnetic resonance technology as taught in an approved education program, and

(vii) such other practices and procedures as set out in the regulations;

(za) “Medical Imaging and Radiation Therapy Professional” means a person whose name is entered in the Register and who holds a licence;

(zb) “medical imaging professional” means a person who engages in the practice of medical imaging technology;

(zc) “Minister” means the Minister of Health and Wellness;

(zd) “nuclear medicine technologist” means a person holding a licence endorsed in the discipline of nuclear medicine technology;

(ze) “nuclear medicine technology” means the following aspects of the practice of medical imaging technology:

(i) the use of radiopharmaceuticals to produce high quality images for the diagnosis and treatment of disease,

(ii) the education, advocacy and application of radiation safety in the protection of patients, health care professionals and the public,

(iii) the assessment of patients before, during and after the application of nuclear medicine imaging and therapy,

(iv) the use of pharmaceuticals in the performance of diagnostic interventions to enhance images,

(v) the application of knowledge, skills and judgement in the evaluation and interpretation of diagnostic images,

(vi) such other practices and procedures within the scope of practice of nuclear medicine technology as taught in an approved education program, and

(vii) such other practices and procedures as set out in the regulations;

(zf) “patient” means the individual, group, community or population that is the recipient of professional services and, where the context requires, includes a substitute decision-maker for the recipient of professional services;

(zg) “party” means the College or a respondent, as the context requires;

(zh) “practice” means the practice of medical imaging technology and the practice of radiation therapy;

(zi) “practice of medical imaging technology” means the application of professional medical imaging technology knowledge, skills and judgement in the use of ionizing and non-ionizing radiation, magnetic fields, high frequency sound waves and other energy forms, in the provision of diagnostic and therapeutic modalities, in collaboration with other health care professionals, to achieve optimal health, wellness and functional performance, and includes the practice of

(i) diagnostic medical sonography,

(ii) magnetic resonance technology,

(iii) nuclear medicine technology,

(iv) radiological technology, and

(v) the practice of any other medical imaging technology discipline set out in the regulations,

and includes research, education, consultation, management, administration, information technology, regulation and policy or system development relevant to the foregoing;

(zj) “profession” means the practice of medical imaging technology or radiation therapy, as the context requires;

(zk) “Professional Conduct Committee” means the Professional Conduct Committee appointed pursuant to this Act;

(zl) “professional conduct process” means the processes set out in Sections 38 to 78 and any related regulations;

(zm) “professional corporation” means one or more licensed registrants incorporated pursuant to the laws of the Province for the purpose of engaging in practice;

(zn) “professional development program” means a program approved by the Board for training, education, conferences and other activities of a professional development nature;

(zo) “professional misconduct” includes such conduct or acts relevant to the profession 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 standards of practice,
- (ii) failing to abide by this Act, the regulations or the by-laws,
- (iii) failing to uphold any code of ethics adopted by the College,
- (iv) abusing a person verbally, physically, emotionally or sexually,
- (v) misappropriating personal property, drugs or other property belonging to a patient or a registrant’s employer,
- (vi) wrongfully abandoning a patient,
- (vii) neglecting to provide care to a patient,
- (viii) failing to exercise appropriate discretion in respect of the disclosure of confidential information,
- (ix) falsifying records,
- (x) inappropriately using professional status for personal gain,
- (xi) promoting for personal gain any drug, device, treatment, procedure, product or service that is unnecessary, ineffective or unsafe,
- (xii) publishing, or causing to be published, any advertisement that is false, fraudulent, deceptive or misleading,
- (xiii) engaging or assisting in fraud, misrepresentation, deception or concealment of a material fact when applying for or securing registration or a licence or taking any examination provided for in this Act, including using fraudulently procured credentials,
- (xiv) taking or using a protected title, or describing the person’s activities as a discipline in any advertisement or publication, including business cards, websites or signage, unless the referenced activity falls within the definition of the relevant discipline;

(zp) “professional services” means medical imaging technology or radiation therapy services, as the context requires;

(zq) “public representative” means a member of the Board or of a committee of the Board who is not a registrant of the College;

(zr) “protected title” means any of the titles or designations set out in Section 23;

(zs) “radiation therapist” means a person holding a licence endorsed in the discipline of radiation therapy;

(zt) “radiation therapy” means the application of professional radiation therapy knowledge, skills and judgement in the use of ionizing radiation and other energy forms in the provision of therapy, in collaboration with health care professionals to achieve optimal health, wellness and functional performance, and includes

(i) the planning for and application of ionizing radiation to patients in accordance with a prescription and instructions from a radiation oncologist,

(ii) the education, advocacy and application of radiation safety in the protection of patients, health care professionals and the public,

(iii) the assessment of patients before, during and after the application of radiation therapy treatments,

(iv) the use of pharmaceuticals in the performance of therapy interventions to enhance treatment,

(v) the application of knowledge, skills and judgement in the evaluation and interpretation of treatment,

(vi) such other practices and procedures within the scope of practice of radiation therapy as taught in an approved education program, and

(vii) such other practices and procedures as set out in the regulations;

(zu) “radiological technologist” means a person holding a licence endorsed in the discipline of radiological technology;

(zv) “radiological technology” means the following aspects of the practice of medical imaging technology:

(i) the application of ionizing radiation to perform procedures and produce high quality diagnostic images,

(ii) the education, advocacy and application of radiation safety in the protection of patients, health care professionals and the public,

(iii) the assessment of patients before, during and after the application of radiological technology,

(iv) the use of pharmaceuticals in the performance of diagnostic interventions to enhance images,

(v) the application of knowledge, skills and judgement in the evaluation and interpretation of diagnostic images,

(vi) such other practices and procedures within the scope of practice of radiological technology as taught in an approved education program, and

(vii) such other practices and procedures as set out in the regulations;

(zw) “Refresher Program” means a program approved by the Board that tests knowledge and provides for a period of preceptored clinical practice in the profession;

(zx) “Register” means the Register established pursuant to this Act;



(zy) “registrant” means a person whose name is entered in the Register and, for the purpose of Sections 38 to 78 and the regulations, includes a person who holds a temporary licence at the time of an incident giving rise to a complaint;

(zz) “Registrar” means the Registrar of the College appointed pursuant to this Act;

(zza) “Registration Appeal Committee” means the Registration Appeal Committee appointed pursuant to this Act;

(zzb) “Reinstatement Committee” means the Reinstatement Committee appointed pursuant to this Act;

(zzc) “respondent” means the person who is the subject of a complaint or the subject of an appeal pursuant to this Act or the regulations;

(zzd) “roster” means the record of a category of licence established pursuant to this Act or the regulations;

(zze) “scope of practice” means the roles, functions and accountabilities registrants are educated in and authorized to perform;

(zzf) “settlement proposal” means a proposal for the settlement of a complaint as prescribed in the regulations;

(zzg) “Society” means the Nova Scotia Society of Diagnostic Medical Sonographers;

(zzh) “standards of practice” means the entry-level professional practice expectations for any registrant in any setting or role, approved by the Board or otherwise inherent in the profession;

(zzi) “temporary licence” means a temporary licence issued pursuant to this Act;

(zzj) “temporary licence (graduate)” means a temporary licence (graduate) issued pursuant to the regulations;

(zzk) “witness” includes every person who, in the course of a legal proceeding, is examined for discovery or cross-examined upon an affidavit made by that person, answers any interrogatories, makes an affidavit as to documents or is called upon to answer any question or produce any document, whether under oath or not, and includes any representative of the College.

## COLLEGE

**3 (1)** The Nova Scotia Association of Medical Radiation Technologists continued by the former Act is hereby continued as a body corporate under the name of the Nova Scotia College of Medical Imaging and Radiation Therapy Professionals, and is composed of its registrants.

**(2)** All assets, property and liabilities held by the Nova Scotia Association of Medical Radiation Technologists become the assets, property and liabilities of the College at the time of the coming into force of this Act.

**(3)** 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.

**4** In order to

- (a) serve and protect the public interest in the practice of the profession; and
- (b) subject to clause (a), preserve the integrity of the profession and maintain the confidence of the public in the ability of the profession to regulate itself,

the College shall

- (c) regulate the practices of medical imaging technology and radiation therapy and govern its registrants through
  - (i) the registration, licensing, professional conduct and other processes set out in this Act and the regulations,
  - (ii) the establishment and promotion of standards of practice for its registrants,
  - (iii) the establishment and promotion of a code of ethics, and
  - (iv) the advancement and promotion of the practise of the profession; and
- (d) do such other lawful acts and things as are incidental to the attainment of the purposes and objects set out in this Section.

**5** There must be an annual general meeting of the College at such time and place as prescribed by the Board.

## BOARD

**6** There shall be a Board of the College constituted as provided in Section 8.

**7 (1)** The Board shall govern the College and manage its affairs and may take any action consistent with this Act and the regulations that it considers necessary for the promotion, protection, interest or welfare of the College, including

- (a) the setting of fees payable by applicants and registrants;
- (b) approving the processes for establishing, revising and monitoring its annual budget;
- (c) submitting to each annual general meeting of the College an audited financial statement of the College's operations for the past fiscal year;
- (d) appointing an auditor for the College; and
- (e) approving proposed changes to this Act, the regulations and the by-laws.

**(2)** In addition to any other power conferred by this or any other Act, the Board 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, considers expedient;

(d) expend the money of the College in the advancement of its objects in such manner as it considers expedient;

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

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

(i) secure the repayment of money borrowed, in such manner and upon such terms and conditions as it considers fit, and, in particular, by the execution and delivery of mortgages of all or any part of the real or personal property of the College, both present and future; and

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

**(3)** The Board may take any action consistent with this Act by resolution passed by the Board.

**8 (1)** The Board is composed of

(a) a minimum of five registrants and such additional number of registrants as set out in the by-laws; and

(b) at least one-third public representatives appointed pursuant to the regulations who

(i) are not registrants of the College, and

(ii) have shown an interest in serving on the Board.

**(2)** Members of the Board under clause (1)(a) must be elected or appointed to office in such manner as set out in the by-laws.

**(3)** The terms of office for members of the Board are as set out in the by-laws.

**(4)** A majority of the Board constitutes a quorum.

**(5)** Notwithstanding subsection (3), a public representative on the Board continues to hold office until his or her successor is appointed or until re-appointed.

(6) Notwithstanding the other provisions of this Section, the executive members of the Association under the former Act and the executive members of the Society immediately before the coming into force of this Act make up the Board of the College until the first election or appointment of members pursuant to this Act.

(7) Notwithstanding the by-laws, the president from the Association and the president from the Society immediately before the coming into force of this Act are the co-presidents of the College until the first election or appointment of members pursuant to this Act.

(8) The first elections under this Act must take place no later than six months after this Act comes into force.

9 (1) The Board shall appoint a Registrar of the College and shall determine the term of office and the duties of the Registrar.

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

(3) The Registrar is a non-voting member of the Board.

10 The Board may make by-laws not inconsistent with this Act

(a) respecting the holding of the annual general meeting and special meetings of the College, including the notice for such meetings, the content of such meetings, the quorum, the procedures to be followed and the manner of voting;

(b) respecting 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;

(c) establishing a Nominations Committee, including its composition and duties;

(d) establishing the composition and number of the Board members and the eligibility for election or appointment to the Board;

(e) establishing the timing and manner of the election or appointment to the Board;

(f) respecting the terms of office of the persons sitting on the Board, the manner in which vacancies on the Board may be filled and the manner of removing Board members;

(g) prescribing the manner in which resolutions are forwarded to the Board;

(h) prescribing the roles, powers and duties of the officers of the College;

(i) respecting the holding of Board meetings, including required meetings, the notice for such meetings, the quorum and procedure to be followed and the manner of voting;

(j) respecting the establishment of, quorum for, powers and duties of such committees as may be appointed by the Board pursuant to this Act and providing for the holding and conduct of meetings of such committees;

(k) respecting the seal of the College;

(l) respecting the location of the head office of the College;

- (m) respecting the approval of forms required for the conduct of the business of the College;
- (n) approving the code of ethics for and standards of practice of the professions;
- (o) creating categories of affiliation with the College, including honorary and student categories, and prescribing the rights, privileges, qualifications and obligations of the persons in these categories and prescribing the conditions for the entry and maintenance of such persons' names in these categories;
- (p) respecting all other things necessary for the administration of the affairs of the College.

- 11 (1)** With the approval of the Governor in Council, the Board may make regulations
- (a) respecting the registration and licensing of registrants and applicants for registration and licences, the renewals of registrants and the reinstatement of registrants, including the educational preparation and other criteria required for registration and licensing, renewal and reinstatement;
  - (b) respecting the titles and designations authorized for use by medical imaging technologists and radiation therapists;
  - (c) prescribing practices and procedures that may be included or excluded within any of the disciplines regulated by this Act;
  - (d) respecting all matters associated with the professional conduct processes of the College, including the investigative and hearing processes and settlement agreements;
  - (e) respecting the powers, authority and processes of the Registrar, an investigator, the Investigative Committee and the Professional Conduct Committee relevant to the professional conduct process;
  - (f) respecting conditions under which temporary licences may be issued, including designations authorized for use by holders of temporary licences;
  - (g) creating the categories of licences;
  - (h) creating one or more rosters of licensing and prescribing the rights, privileges, qualifications and obligations of the registrants of each roster and prescribing the conditions for the entry and maintenance of registrants' names in each roster;
  - (i) respecting the imposition of terms or conditions on a registrant's registration or licence;
  - (j) establishing the process pursuant to subsection 22(2) to authorize registrants licensed in one discipline to engage in the practice of designated aspects of another discipline, which process must be in addition to any process available under the *Regulated Health Professions Network Act*;
  - (k) approving additional disciplines and providing for the regulation of registrants of such disciplines, and the protection of titles to be used by registrants of such disciplines;
  - (l) prescribing tasks authorized to be performed under supervision, and the degree of supervision required;

- (m) respecting the information to be included on the Register;
- (n) respecting the revocation or suspension of licences issued pursuant to this Act and the reinstatement of such licences and allowing for conditions or restrictions to be attached to a reinstated licence;
- (o) allowing for an award of costs on a solicitor-client or other basis;
- (p) authorizing the establishment of a Fitness to Practise program, including the creation of a Fitness to Practise Committee, with such powers, authorities and duties as set out in the regulations to deal with issues of incapacity;
- (q) providing that the licence of a registrant be suspended without notice or 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 upon payment of such fee as determined by the Board;
- (r) respecting the ability of the Registrar, the Investigative Committee and the Professional Conduct Committee to impose a fine if registrants have engaged in practice while not holding a current licence;
- (s) respecting the reporting and publication of decisions in disciplinary matters;
- (t) providing for the audit of a person who holds a licence, and the person's practice environment;
- (u) prescribing legislation pursuant to Section 55, the violation of which may require a registrant to attend a hearing;
- (v) prescribing the requirements, processes and obligations regarding incorporation of a practice, and otherwise regulating the practise of the profession by a partnership, company or individual operating under a business name or under any form of a limited liability practice;
- (w) respecting a process for the appointment of public representatives to the Board;
- (x) respecting the exemption granted to registered nurses to engage in the practice of diagnostic medical sonography as set out in subclause 89(1)(g)(ii);
- (y) defining any word or expression used but not defined in this Act;
- (z) further defining any word or expression defined in this Act;
- (za) governing such other matters as the Board considers necessary or advisable for the effective discharge of its functions or the exercise of its powers.

**(2)** The Governor in Council may make regulations respecting the circumstances and the specified site in a district health authority that has less than 25 patient beds in which a regulated health professional may practise radiological technology.

**(3)** The exercise by the Board of the authority contained in subsection (1) or the exercise by the Governor in Council of the authority contained in subsection (2) is a regulation within the meaning of the *Regulations Act*.

(4) All regulations and by-laws of the Board must be available for inspection by any person, free of charge, at the head office of the College at all reasonable times during business hours.

## REGISTRATION AND LICENSING

**12 (1)** The Board shall keep a Register in which the names of all persons who are entitled pursuant to this Act to be registered are recorded.

(2) The Register must include such other information required by the regulations.

(3) The Board shall cause to be kept a record available to the public showing

(a) the name and registration number of every person authorized to engage in practice;

(b) the discipline or disciplines in which the registrant is authorized to practise;

(c) any conditions or restrictions on such person's licence if the Registrar determines it is in the public interest to have such information available to the public; and

(d) any licensing sanctions imposed on a registrant that are not otherwise subject to a publication ban.

**13 (1)** The categories of licences are as set out in the regulations.

(2) The Board shall cause to be maintained a separate roster for each category of licence as provided by the regulations.

**14 (1)** The Board shall appoint a Credentials Committee, the membership of which consists of one public representative and at least two registrants, as determined by the Board.

(2) The Board shall appoint one of the registrants of the Credentials Committee as the chair of the Committee.

(3) A majority of the Credentials Committee constitutes a quorum.

(4) The Credentials Committee shall perform such functions as are set out in this Act, the regulations and the by-laws.

(5) Subject to subsection (6), the Registrar, the Credentials Committee and each member of the Credentials Committee have all of the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment.

(6) The Registrar, the Credentials Committee and each member of the Credentials Committee may only exercise any of the powers and privileges pursuant to subsection (5) if authorized by the chair of the Credentials Committee.

**15 (1)** The Registrar shall register and issue a licence to a person who meets the criteria for registration and entry in the applicable roster as set out in the regulations, and as approved by the Credentials Committee.

**(2)** The Credentials Committee may impose conditions or restrictions on a licence with the consent of the registrant if such conditions or restrictions are necessary in the interest of the public.

**(3)** Where conditions or restrictions are imposed by the Credentials Committee, the Registrar shall issue to the applicant a licence with conditions or restrictions.

**(4)** Where the Credentials Committee imposes conditions or restrictions pursuant to subsection (2), such conditions or restrictions are not licensing sanctions.

**16 (1)** Where a person

**(a)** fails to meet the requirements or conditions for a licence, with or without conditions or restrictions as prescribed by the regulations; or

**(b)** is registered or licensed to practise in another jurisdiction,

and it is otherwise consistent with the objects of the College to issue a licence, with or without conditions or restrictions, the Credentials Committee, upon payment of the prescribed fee, may approve or refuse an application for a temporary licence and shall notify the applicant accordingly.

**(2)** A temporary licence issued pursuant to subsection (1) must be issued for a specified period of time, not to exceed 12 months in total, but may cease to be valid at an earlier time in accordance with the regulations.

**(3)** A temporary licence may be renewed if, in the opinion of the Credentials Committee, the criteria for the issuing of a temporary licence has been met, but a temporary licence may not at any time be issued for a period exceeding 12 months for each licence.

**(4)** The Registrar may impose conditions or restrictions on a temporary licence if such conditions or restrictions are necessary in the interest of the public.

**(5)** Where conditions or restrictions are imposed by the Registrar pursuant to subsection (4), the Registrar shall issue to the applicant a temporary licence with conditions or restrictions.

**(6)** Where the Registrar imposes conditions or restrictions pursuant to subsection (4), such conditions or restrictions are not licensing sanctions.

**(7)** The College shall maintain a roster of temporary licences and a roster of temporary licences with conditions or restrictions.

**(8)** The decision of the Registrar respecting the issue of a temporary licence or a temporary licence with conditions or restrictions is final.



**17 (1)** Where a person meets the criteria for the issuing of a temporary licence (graduate) as set out in the regulations, the Registrar shall issue a temporary licence (graduate) to such person.

**(2)** A temporary licence (graduate) issued pursuant to subsection (1) must be issued for such period of time as set out in the regulations.

**(3)** A temporary licence (graduate) may be renewed if, in the opinion of the Credentials Committee, the criteria for the issuing of a temporary licence (graduate) pursuant to the regulations have been met.

**(4)** The College shall maintain a roster of temporary licences (graduate).

**(5)** The decision of the Registrar respecting the issue of a temporary licence (graduate) is final.

**18** Where an applicant

**(a)** has been refused registration; or

**(b)** has been refused a licence other than a temporary licence,

the Credentials Committee shall give written reasons for such decision and the applicant may, by written notice, appeal that decision by forwarding a notice of appeal to the Registrar, within 30 days of receipt of such written reasons.

**19 (1)** On receipt of an appeal pursuant to Section 18, the Board shall appoint a Registration Appeal Committee, the membership of which consists of one public representative, one registrant from the same discipline as the appellant and one other registrant.

**(2)** The Board shall appoint one of the registrants of the Registration Appeal Committee as the chair of the Committee.

**(3)** A quorum of the Registration Appeal Committee consists of two persons, at least one of whom must be a registrant from the same discipline as the appellant.

**(4)** The Registration Appeal Committee shall perform such functions as are set out in this Act, the regulations and the by-laws.

**(5)** Subject to subsection (6), the Registrar, the Registration Appeal Committee and each member of the Registration Appeal Committee have all of the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment.

**(6)** Each member of the Registration Appeal Committee may only exercise any of the powers and privileges pursuant to subsection (5) if authorized by the chair of the Registration Appeal Committee.

**20 (1)** Upon receipt of an appeal pursuant to Section 18, the Registration Appeal Committee shall

- (a) set a date for a hearing of the appeal not later than 60 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 appellant and the Registrar; and
- (c) advise the appellant of the right to
  - (i) be represented by legal counsel, a union representative or another representative at the expense of the appellant,
  - (ii) disclosure of any information to be provided to the Registration Appeal Committee, and
  - (iii) a reasonable opportunity to present a response and make submissions.

(2) The parties to an appeal before the Registration Appeal Committee are the College and the appellant.

(3) The Registration Appeal Committee shall determine the procedure to be followed for the Appeal, and the Registration Appeal Committee may proceed by way of a review of the written record, without the necessity of an oral hearing.

**21** (1) The Registration Appeal Committee, in accordance with the evidence it receives when hearing an appeal, may make any determination that, in its opinion, ought to have been made by the Registrar or the Credentials Committee.

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

(3) The decision of the Registration Appeal Committee is final.

#### PROTECTED TITLES AND PRACTICE

**22** (1) No person shall engage in the practice of a discipline unless such person

- (a) holds a licence endorsing the person as eligible to practise in that discipline;
- (b) is a student in an approved education program in that discipline, and is engaging in learning authorized by that program; or
- (c) is otherwise authorized to engage in the practice of that discipline as set out in this Act or the regulations.

(2) Notwithstanding any other provisions of this Act or the regulations, and in addition to any procedure pursuant to the *Regulated Health Professions Network Act*, the Board may set out in the regulations a process to authorize registrants licensed in one discipline to engage in the practice of designated aspects of another discipline.

(3) Where a registrant has been authorized to engage in the practice of designated aspects of another discipline pursuant to subsection (2), such person is not in violation of subsection (1).

**23 (1)** No person shall take or use the designation “Registered Medical Imaging Professional”, “Medical Imaging Professional”, “Registered Medical Imaging Technologist” or “Medical Imaging Technologist”, or any derivation or abbreviation thereof, or describe the person’s activities as the “practice of medical imaging technology” unless that person

(a) holds a current licence in the disciplines of diagnostic medical sonography, magnetic resonance technology, nuclear medicine technology or radiological technology; or

(b) is otherwise authorized to use such designation as set out in this Act or the regulations.

(2) No person shall take or use the designation “Registered Medical Radiation Technologist” or “Medical Radiation Technologist”, or any derivation or abbreviation thereof, or describe the person’s activities as “medical radiation technology” unless that person

(a) holds a current licence in the disciplines of magnetic resonance technology, radiological technology, nuclear medicine technology or radiation therapy; or

(b) is otherwise authorized to use such designation as set out in this Act or the regulations.

(3) No person shall take or use the designation “Diagnostic Medical Sonographer”, “Diagnostic Ultrasound Technologist”, “Registered Diagnostic Ultrasound Professional”, “Registered Ultrasound Technologist”, “Registered Sonographer”, “Sonographer”, or any derivation or abbreviation thereof, or describe the person’s activities as diagnostic medical sonography or diagnostic sonography unless that person

(a) holds a current licence in the discipline of diagnostic medical sonography; or

(b) is otherwise authorized to use such designation and to engage in the practice of diagnostic medical sonography as set out in this Act or the regulations.

(4) No person shall take or use the designation “Registered Technologist, Magnetic Resonance” or “Magnetic Resonance Technologist”, or any derivation or abbreviation thereof, or describe the person’s activities as “magnetic resonance technology” unless that person

(a) holds a current licence in the discipline of magnetic resonance technology; or

(b) is otherwise authorized to use such designation and to engage in the practice of magnetic resonance technology as set out in this Act or the regulations.

(5) No person shall take or use the designation “Registered Technologist, Nuclear Medicine”, “Nuclear Medicine Technologist”, or any derivation or abbreviation thereof, or describe the person’s activities as “nuclear medicine technology” unless that person

(a) holds a current licence in the discipline of nuclear medicine technology; or

(b) is otherwise authorized to use such designation and to engage in the practice of nuclear medicine technology as set out in this Act or the regulations.

**(6)** No person shall take or use the designation “Registered Technologist Radiation Therapy”, “Radiation Therapist”, or any derivation or abbreviation thereof, or describe the person’s activities as “radiation therapy” unless that person

(a) holds a current licence in the discipline of radiation therapy; or

(b) is otherwise authorized to use such designation and to engage in the practice of radiation therapy as set out in this Act or the regulations.

**(7)** No person shall take or use the designation “Registered Technologist, Radiological Technology”, “Radiological Technologist”, “X-ray Technologist”, or any derivation or abbreviation thereof, or describe the person’s activities as “radiological technology” or “X-ray technology” unless that person

(a) holds a current licence in the discipline of radiological technology; or

(b) is otherwise authorized to use such designation and to engage in the practice of radiological technology as set out in this Act or the regulations.

**(8)** No person shall use the term “graduate” with any of the protected titles, or any derivation or abbreviation thereof, unless that person

(a) holds a temporary licence (graduate) issued in accordance with the Act and regulations; or

(b) is otherwise authorized to use such term as set out in this Act or the regulations.

**24 (1)** No registrant shall engage in practice that falls outside that registrant’s individual scope of practice.

**(2)** Unless otherwise authorized pursuant to this Act or the regulations, or any other law, no registrant shall practise outside the scope of practice of his or her discipline.

**25** For the purpose of this Act and the regulations,

(a) a registrant in the Province who is engaged in practice by electronic means with patients outside of the Province is deemed to be practising the profession in the Province;

(b) a person, other than a registrant, who is outside of the Province and who engages in practice by electronic means with patients within the Province is not practising the profession in the Province if the person is licensed pursuant to a statute of another jurisdiction;

(c) a person, other than a registrant, who resides outside of the Province and who engages in practice by electronic means with patients within the Province, while not holding a licence in another jurisdiction, is deemed to be practising the profession in the Province; and

(d) nothing in this Act prohibits the practise of the profession in the Province or the recovery of fees or compensation for professional services rendered by a person registered

in another country, state, territory or province and whose engagement requires that person to accompany and temporarily care for a patient during the period of the engagement, if that person does not represent or hold himself or herself out as a person registered pursuant to this Act.

**26** Subject to clause 25(d), no person shall bring an action in any court to collect fees, compensation or other remuneration for professional services, unless that person was the holder of a relevant licence at the time the professional services were performed.

**27** A statement certified under the hand of the Registrar respecting the membership and entry in the appropriate roster of a person's name is admissible in evidence as *prima facie* proof of that person's entry in such roster.

**28** Where the right of a person to practise has been limited by the imposition of conditions or restrictions pursuant to this Act or the regulations, particulars of all conditions or restrictions imposed on that person must be noted in the records of the College and may be disclosed to the public in accordance with this Act.

**29 (1)** The Registrar shall make a change in the Register if

- (a) data has been entered incorrectly;
- (b) notification is received of a registrant's death;
- (c) the registration of a registrant has been revoked;
- (d) the Investigative Committee, as part of an informal resolution of a complaint, or the Professional Conduct Committee authorizes the resignation of a registrant from the Register; or
- (e) a registrant has requested the change in writing and the Registrar, as part of an informal resolution of a complaint or otherwise, has approved the resignation of a registrant.

**(2)** Where a notation has been made on the Register pursuant to clause (1)(b), (c), (d) or (e), the person ceases to be a registrant of the College.

**30 (1)** The Registrar shall remove the name of a registrant from the appropriate roster if

- (a) data has been incorrectly entered;
- (b) notification is received of the registrant's death;
- (c) the registration of the registrant has been revoked;
- (d) the registrant so requests and surrenders any licence held;
- (e) the registrant has been suspended, for the term of the suspension;
- (f) the registrant no longer meets the criteria for entry on the relevant roster;
- (g) there has been non-payment of fees or other assessments levied under this Act or the regulations; or

(h) the Investigative Committee, the Professional Conduct Committee or the Registrar authorizes the resignation of a registrant from the Register.

**(2)** The name of a person removed from the appropriate roster pursuant to clause (1)(a), (c), (d), (e), (f) or (g) must be restored upon

- (a) payment of the prescribed fee; and
- (b) compliance by the person with this Act and the regulations.

**(3)** The name of a person removed from the Register pursuant to clause 29(1)(d) or (e) or the appropriate roster pursuant to clause (1)(h) may only be restored if

- (a) the Committee or the Registrar authorizing the resignation of the registrant permitted the registrant the opportunity to re-apply for membership in the College; and
- (b) the Reinstatement Committee determines, on such conditions or with such restrictions as it directs, that the registration or licence should be reinstated.

**31 (1)** Every person, other than a patient, who employs a person in the practice of the profession and every agency or registry that procures employment for a person in the practice of the profession shall

- (a) ensure that the person, at the time of employment and each year employed thereafter, holds a current licence in the relevant discipline as set out in the regulations;
- (b) where the person's employment is terminated or the person resigns because of allegations of professional misconduct, conduct unbecoming the profession, incompetence or incapacity, report the matter to the Registrar forthwith and provide a copy of the report to the person whose employment is terminated.

**(2)** Every person, other than a patient, who employs an incorporated entity engaged in the practice and every agency or registry that procures employment for an incorporated entity engaged in practice shall comply with subsection (1) with respect to each person engaged in practice who is in the employ of the incorporated entity.

**32 (1)** A registrant who engages in practice outside the Province, was subject to any disciplinary findings while outside the Province or has outstanding complaints from outside the Province, shall not engage in practice upon returning to the Province before providing the Registrar with notice of such disciplinary findings or complaints and receiving from the Registrar a notice authorizing the registrant to practise in the Province.

**(2)** Where the Registrar receives a notice pursuant to subsection (1), the Registrar may file a complaint.

**33 (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;

- (b) engages in practice in the Province without complying with Sections 22 and 23;
- (c) engages in practice in violation of any condition or restriction imposed on the person's licence; or
- (d) otherwise contravenes this Act or the regulations,

is guilty of an offence and liable on summary conviction to a fine of not more than \$2,000 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 penalty otherwise provided for in this Act or the regulations.

(3) All fines and penalties payable under this Act or under the *Summary Proceedings 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 Registrar or any person authorized by the Registrar.

**34** In a prosecution of an offence contrary to this Act or the regulations, the onus of proving that a person accused of an offence has the right to practise, or that a person comes within any of the exemptions provided by this Act, is on the person accused.

**35** Where a violation of this Act or the regulations by a person continues for more than one day, the offender is guilty of a separate offence for each day that the violation continues.

**36** For the purpose of this Act or the regulations, proof of the performance by a non-registrant of one act in the practice of medical imaging technology or radiation therapy is sufficient to establish that a person has engaged in practice.

**37 (1)** In the event of a threatened or continuing violation of this Act or the regulations, the College may apply to a judge for an injunction to restrain the person from continuing or committing the violation and the judge, where the judge considers it to be just, may grant such an injunction.

(2) A judge may, on application, grant an interim injunction pending the hearing of an application for an injunction pursuant to subsection (1) if the judge is satisfied that there is reason to believe that a person is likely to commit or is continuing to commit a violation of this Act or the regulations.

(3) A judge may make such orders as to costs as the judge considers appropriate in any proceedings pursuant to Sections 33 to 36 and this Section.

## PROFESSIONAL CONDUCT

**38 (1)** In accordance with the objects of the College, the purpose of the professional conduct process is to inhibit professional misconduct, conduct unbecoming the profession, incompetence and incapacity.

(2) The College shall investigate, on its own initiative or on the complaints of others, alleged instances of such misconduct, conduct unbecoming the profession, incompetence or incapacity and, when appropriate, disposing of the matter or matters in accordance with the regulations.

(3) Except where considered prejudicial to the attainment of the objects of the College, the professional conduct process followed by the College must take into account the potential for the rehabilitation of the respondent.

(4) A registrant has a duty to co-operate with the College in the conduct of its professional conduct process.

**39** Where a person ceases to be registered or licensed for any reason, such person remains subject to the jurisdiction of the College for the purpose of the professional conduct process, if the subject-matter of the professional conduct process arose out of the person's conduct while registered or licensed.

#### INVESTIGATIVE COMMITTEE

**40** (1) The Board shall appoint an Investigative Committee composed of such number of registrants and public representatives as determined by the Board.

(2) The Board shall appoint a chair and a vice-chair of the Investigative Committee.

(3) The vice-chair shall act as chair in the absence of the chair.

(4) Where, for any reason, neither the chair nor the vice-chair are available for the purpose of Section 41, the Board may, for such purposes, appoint a member of the Investigative Committee to be chair of the Investigative Committee.

**41** (1) The chair of the Investigative Committee shall appoint a panel of three persons from the Investigative Committee, one of whom must be a public representative and one of whom must be a registrant from the same discipline as the respondent, to act as the Investigative Committee for purposes of the professional conduct process.

(2) The chair of the Investigative Committee may sit on the panel and shall act as the chair of the panel in this event.

(3) Where the chair of the Investigative Committee is not appointed to the panel, the chair of the Investigative Committee shall appoint a chair for such panel.

**42** (1) A quorum of the Investigative Committee consists of two persons, at least one of whom must be a registrant from the same discipline as the respondent.

(2) Failure of one or more Investigative Committee members to receive any notice of a meeting does not invalidate the proceedings thereat, and nothing herein precludes the members from waiving notice of meetings.



**43** All Investigative Committee decisions require the vote of a majority of the panel of the Investigative Committee appointed pursuant to subsection 41(1).

**44** Where a proceeding is commenced before the Investigative Committee and the term of office of any person sitting on the Investigative Committee expires, that person may remain part of the Committee until the proceeding is concluded.

- 45** (1) A complaint may be initiated by
- (a) any body corporate or association;
  - (b) the Registrar;
  - (c) a committee of the College; or
  - (d) any other person.

(2) Where the College and the complainant agree, a complaint may be withdrawn.

**46** (1) The Investigative Committee has all the powers conferred by this Act and the regulations in the discharge of its functions.

(2) Subject to subsection (3), the Registrar, an Investigator, the Investigative Committee and each member of the Investigative Committee shall have all of the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment.

(3) An investigator and each member of the Investigative Committee may only exercise any of the powers and privileges pursuant to subsection (2) if authorized by the chair of the Investigative Committee.

**47** (1) The Investigative Committee may set its own procedure for meetings.

(2) The Investigative Committee retains jurisdiction over a matter until such time as a hearing commences before the Professional Conduct Committee or the matter is otherwise resolved by the Professional Conduct Committee or in accordance with this Act and regulations.

**48** Subject to subsection 45(2), once received, a complaint must be processed in accordance with the regulations.

**49** With respect to any decision issued by the Investigative Committee that is available to the public pursuant to this Act or the regulations, the Committee may impose a publication ban on such portions of its decision as considered necessary by the Committee.

**50** (1) A complaint must be disposed of in accordance with the regulations.

(2) When a complaint is forwarded to the Investigative Committee for disposition, the Committee shall give its decision in writing and send a copy of the written decision, by registered mail or personal service, to the respondent and the complainant and may send some or all of the written decision to such other persons as the Committee determines.

- to
- (3)** In a proceeding before the Investigative Committee, a respondent has the right
- (a) be represented by legal counsel or a union representative at the respondent's own cost;
  - (b) disclosure of the complaint, any written reports of the investigator provided to the Investigative Committee and any other document produced or received by the Committee; and
  - (c) a reasonable opportunity to present a response and make submissions.

**51 (1)** The Investigative Committee, where it is reasonably necessary to protect the public interest, may, at its discretion, direct the Registrar

- (a) to suspend a licence;
- (b) to impose restrictions or conditions on a respondent's licence; or
- (c) where a person does not hold a current licence, to suspend the ability of the person to obtain a licence,

pending or following the completion of an investigation and lasting until the suspension, restrictions or conditions are lifted, superseded or annulled by the Committee or the Professional Conduct Committee, as the case may be.

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

**(3)** A registrant who receives written notice pursuant to subsection (2) may request, in writing within 30 days, an opportunity to meet with the Investigative Committee.

**52** Where a request is received pursuant to subsection 51(3), the Investigative Committee

- (a) shall provide an opportunity for the registrant to meet with the Committee within 10 days of the receipt of the request; and
- (b) after meeting with the registrant, may confirm, vary or terminate the suspension or imposition of restrictions or conditions.

**53** Where a meeting is held pursuant to Section 52, the registrant has the right to

- (a) be represented by legal counsel or a union representative at the member's own expense;
- (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.

**54** Where an Investigative Committee issues an interim suspension or imposes conditions or restrictions on a respondent's licence, the Committee shall provide a copy of the decision to the complainant and the respondent and determine whether any part of the Committee's deci-

sion is to be provided to other affected individuals, other regulatory bodies in other jurisdictions, any past, present or intended employer of the respondent or the public.

**55 (1)** Notwithstanding anything contained in this Act or the regulations, where a person

(a) has been charged with, pleaded guilty to, been convicted or found to be guilty of any offence in or out of Canada that is inconsistent with the proper professional behaviour of a registrant, including a conviction under

- (i) the *Criminal Code* (Canada);
- (ii) the *Controlled Drug and Substances Act* (Canada); or
- (iii) such other legislation as is prescribed in the regulations,

unless a pardon has been issued;

(b) has been found guilty of a disciplinary finding in another jurisdiction;

(c) has had a licensing sanction imposed by another jurisdiction; or

(d) is the subject of an investigation or disciplinary process in any jurisdiction,

and such person is a registrant or applies for registration or a licence or the renewal of a licence, the Registrar may, by such notice as the Registrar prescribes, require the person to attend a hearing before the Investigative Committee to fully disclose the facts and circumstances of the matters referred to in clauses (a) to (d).

**(2)** For purpose of a hearing pursuant to subsection (1), the Investigative Committee may take any of the actions authorized to be taken by the Committee pursuant to this Act or the regulations.

**(3)** For the purpose of subsection (1), a certificate of conviction of a registrant is conclusive evidence that the registrant has committed the offence stated therein, unless it is proven that the conviction has been quashed or set aside.

**(4)** When a person holding a licence meets the criteria pursuant to subsection (1), such person shall report the matter to the Registrar immediately.

**56 (1)** All complaints received or under investigation, all information gathered in the course of the professional conduct process and all proceedings and decisions of the Investigative Committee and the Professional Conduct Committee that are not open to or available to the public in accordance with this Act or the regulations must be kept confidential by the person or persons who possess such information.

**(2)** Notwithstanding subsection (1), where it is consistent with the objects of the College,

(a) the Registrar, on the recommendation of the Investigative Committee or the Professional Conduct Committee, may disclose to law enforcement authorities any information about possible criminal activity on the part of a registrant that is obtained during an investigation pursuant to this Act;

(b) the Investigative Committee or the Professional Conduct Committee may authorize the Registrar to release specific information to a specific person or persons;

(c) the Registrar may disclose information with respect to a complaint or a matter before a committee to the regulatory body of another jurisdiction when it is relevant and concerns the fitness of a registrant for membership in the regulatory body of the other jurisdiction; and

(d) the Registrar may disclose information with respect to a complaint for the purpose of the administration of this Act or to meet the objects of the College.

**57 (1)** A witness in any legal proceeding, whether a party thereto or not, is excused from answering any question as to any proceedings of the Investigative Committee, the Professional Conduct Committee or the Reinstatement Committee, and is excused from producing any report, statement, memorandum, recommendation, document or information prepared for purposes of the professional conduct process, including any information gathered in the course of an investigation or produced for the Investigative Committee, the Professional Conduct Committee or the Reinstatement Committee.

**(2)** Subsection (1) does not apply to documents or records that have been made available to the public by the College.

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

#### PROFESSIONAL CONDUCT COMMITTEE

**59 (1)** The Board shall appoint a Professional Conduct Committee composed of such number of registrants and public representatives as determined by the Board.

**(2)** The Board shall appoint a chair and a vice-chair of the Professional Conduct Committee.

**(3)** The vice-chair shall act as chair in the absence of the chair.

**(4)** Where, for any reason, neither the chair nor the vice-chair is available for the purpose of Section 60, the Board may, for such purpose, appoint a member of the Professional Conduct Committee to be chair of the Professional Conduct Committee.

**60 (1)** The chair of the Professional Conduct Committee shall appoint a panel consisting of a minimum of three persons from the Committee, at least one of whom must be a public representative and at least one of whom must be a registrant from the same discipline as the respondent, to act as the Professional Conduct Committee for purpose of the professional conduct process.

**(2)** The chair of the Professional Conduct Committee may sit on the panel and shall act as the chair of the panel in this event.

**(3)** Where the chair of the Professional Conduct Committee is not appointed to the panel, the chair of the Professional Conduct Committee shall appoint a chair for such panel.

**61** A quorum of the Professional Conduct Committee consists of three persons, at least one of whom must be a registrant from the same discipline as the respondent.

**62** No member of the Professional Conduct Committee may be a member of an Investigative Committee.

**63** Failure of one or more Professional Conduct Committee members to receive any notice of a meeting does not invalidate the proceedings at the meeting, and nothing precludes Committee members from waiving notice of meetings.

**64** All Professional Conduct Committee decisions require the vote of a majority of the panel of the Committee appointed pursuant to subsection 60(1) or the quorum of such panel in the event the full panel is not sitting.

**65** Where a proceeding is commenced before the Professional Conduct Committee and the term of office of any person sitting on the Committee expires, that person remains part of the Committee until the proceeding is concluded.

**66 (1)** Where the Investigative Committee refers a matter to the Professional Conduct Committee the Registrar shall, within 30 days from the date of the referral, fix a date, time and place for holding a hearing, to commence not later than 90 days from the date of the referral, or such later date as the respondent and the College may agree or the Professional Conduct Committee may order following an opportunity for submissions from both parties as to such date.

**(2)** A notice of hearing, containing such information as required by the regulations, must be forwarded by the Registrar to the respondent and the complainant at least 30 days before the hearing.

**67** At any stage of the professional conduct process, any document required to be served on or provided to a respondent or any other individual is deemed to be served or provided if

- (a) the intended recipient or the intended recipient's counsel acknowledges receipt of the document;
- (b) a registered mail receipt is provided from Canada Post;
- (c) an affidavit of service on the respondent is provided; or
- (d) the College provides evidence satisfactory to the Professional Conduct Committee that all reasonable efforts to effect service have been exhausted.

**68** Where the Investigative Committee refers a matter to the Professional Conduct Committee, the College, before the commencement of a hearing by the Professional Conduct Committee, may enter into a settlement proposal with the respondent, which proposal must be dealt with in accordance with the regulations.

**69 (1)** Subject to subsection (2), the Professional Conduct Committee and each person on the Professional Conduct Committee have all of the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*, with the exception of the powers of contempt, arrest, and imprisonment.

**(2)** Each member of the Professional Conduct Committee may only exercise any of the powers and privileges pursuant to subsection (1) if authorized by the chair of the Professional Conduct Committee.

**70 (1)** A proceeding held by the Professional Conduct Committee must be conducted in accordance with the regulations.

**(2)** In a proceeding before the Professional Conduct Committee, the parties have the right to

- (a) be represented by legal counsel or a union representative at the party's own expense;
- (b) 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 Professional Conduct Committee unless the opposing party has been given, at least 10 days before a 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, where there is no written report, a written summary of the evidence; and
- (c) in the case of evidence of any other witness, the identity of the witness.

**(4)** Notwithstanding subsection (3), the Professional Conduct 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.

**71 (1)** Where the Professional Conduct Committee finds professional misconduct, conduct unbecoming the profession, incompetence or incapacity, the Committee shall dispose of the matter or matters in accordance with the regulations.

**(2)** Where the Professional Conduct Committee has revoked the registration of a registrant, the Committee shall determine whether the registrant is entitled to apply for reinstatement of registration or whether the revocation is final.

**(3)** Where the Professional Conduct Committee determines that a registrant whose registration has been revoked may apply for reinstatement, the Committee shall determine when the registrant may apply for reinstatement, which may not be earlier than two years from the date of the Committee's decision.

**72 (1)** Subject to any publication bans in existence, where a licensing sanction has been issued by the Investigative Committee or the Professional Conduct Committee, the Registrar shall

(a) make such entries on the records of the College and on the licence of the registrant as set out in the regulations;

(b) publish such information on the website of the College and in official publications of the College as set out in the regulations;

(c) notify other affected licensing bodies as set out in the regulations; and

(d) provide such information to individuals or the public as set out in the regulations.

**(2)** Where the Professional Conduct Committee dismisses a matter, it shall disclose its decision in such manner as it determines.

### REINSTATEMENT COMMITTEE

**73 (1)** The Board shall appoint a Reinstatement Committee, composed of not less than three and not more than five members of the Board, at least one of whom must be a public representative.

**(2)** The Board shall appoint the chair of the Reinstatement Committee.

**(3)** The Reinstatement Committee shall, in the circumstances set out in this Act and the regulations, review applications for reinstatement of registration and licence and perform such other duties as set out in this Act and the regulations.

**(4)** A quorum of the Reinstatement Committee consists of any three members of the Committee, regardless of whether such members are registrants or public representatives.

**74 (1)** Applications for reinstatement must proceed in accordance with the regulations.

**(2)** Where a registrant's licence has been reinstated pursuant to this Section, the Reinstatement Committee, in its discretion, shall determine whether publication of the reinstatement is required in the interest of the public.

**(3)** Subject to subsection (4), the Registrar, the Reinstatement Committee and each member of the Reinstatement Committee have all of the powers conferred by this Act and the regulations in the discharge of its functions as well as the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment.

**(4)** Each member of the Reinstatement Committee may only exercise any of the powers and privileges pursuant to subsection (3) if authorized by the chair of the Reinstatement Committee.

**75 (1)** In a proceeding before the Reinstatement Committee, a registrant has the right to

- (a) be represented by legal counsel, a union representative or another representative at the registrant's expense;
- (b) disclosure of any information to be provided to the Committee; and
- (c) a reasonable opportunity to present a response and make submissions.

(2) Evidence is not admissible before the Reinstatement Committee unless, at least 10 days before the hearing, 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 evidence of any other witness, the identity of the witness.

(3) Notwithstanding subsection (2), the Reinstatement Committee 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.

**76 (1)** Where the period of suspension of a registrant has expired, or the conditions imposed on the registrant have been satisfied, or the restrictions imposed on the registrant have been removed, the Registrar shall restore the licence to the registrant in the form it existed prior to the imposition of the suspension, conditions or restrictions, 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), the Registrar shall
  - (a) make the appropriate entries in the records of the College;
  - (b) where registering bodies in other Canadian jurisdictions had previously been informed of the suspension, conditions or restrictions, notify such registering bodies of the lifting of such suspension, conditions or restrictions; and
  - (c) notify such other persons as directed by the committee that initially imposed the suspension, conditions or restrictions.

**77 (1)** For the purpose of the execution of their duties under this Act, the College or any committee of the College, may retain such legal or other assistance as the College or the committee may think necessary or proper.

(2) Where authorized by this Act or the regulations, the costs of such legal or other assistance may be included, in whole or in part, as costs ordered by the committee.

**78 (1)** A party may appeal on any question of law from the findings of the Professional Conduct Committee to the Nova Scotia Court of Appeal.

(2) The notice of appeal must be filed at the Nova Scotia Court of Appeal and served upon the other party not later than 30 days after service of the decision of the Professional Conduct Committee.



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

**(4)** The *Nova Scotia Civil Procedure Rules* governing appeals 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 Professional Conduct Committee takes effect immediately unless the Court of Appeal grants a stay.

### PROFESSIONAL INCORPORATION

**79** Subject to any regulations made pursuant to subsection 10(1), nothing in this Act prevents the incorporation of a practice, but every registrant continues to be personally responsible for compliance with this Act and the regulations notwithstanding any such incorporation.

**80** All persons who carry on practice as, by, through or on behalf of an incorporated entity are liable in respect of acts or omissions done or omitted to be done by them in the course of their practice to the same extent and in the same manner as if such practice were carried on by them as an individual or a partnership carrying on the practice of the profession.

**81** Where a registrant is engaged in practice as an incorporated entity, the existence of the incorporated entity does not affect, modify or limit any law or standard applicable to the confidential or ethical relationship between a registrant and a patient.

**82** All shareholders, directors, officers and employees of an incorporated entity engaged in practice are compellable witnesses in any proceedings pursuant to this Act.

**83** Where the conduct of a registrant is the subject of a complaint, investigation or inquiry and the registrant was an officer, director, shareholder or employee of an incorporated entity at the time the conduct occurred, any power of inspection, investigation or inquiry that may be exercised in respect of the registrant or the registrant's records may be exercised in respect of the incorporated entity or its records.

**84 (1)** Every incorporated entity engaged in practice that contravenes this Act or the regulations is guilty of an offence and is liable to the same penalties as any person who is guilty of an offence pursuant to this Act.

**(2)** Sections 32 and 33 apply *mutatis mutandis* to all incorporated entities engaged in practice.

### GENERAL

**85 (1)** A registrant has a duty to report to the Registrar if the registrant has reasonable grounds to believe that another registrant of the College

- (a) has engaged in professional misconduct, incompetence or conduct unbecoming the profession;
- (b) is incapacitated; or
- (c) is practising in a manner that otherwise constitutes a danger to the public.

**(2)** A registrant has a duty to report to the regulator of another health profession if the registrant has reasonable grounds to believe that a registrant of that health profession

- (a) has engaged in professional misconduct, incompetence or conduct unbecoming the profession;
- (b) is incapacitated; or
- (c) is practising in a manner that otherwise constitutes a danger to the public.

**(3)** No action for damages or other relief lies against a registrant for any report made pursuant to subsection (1) or (2) if the report was made in good faith.

**86** Any fine or cost ordered to be paid pursuant to this Act or the regulations is a debt due to the College recoverable by civil action, in addition to any other remedy available to the College for non-payment of a fine or cost.

**87 (1)** No action for damages or other relief lies against the College, the Board, the members of the Board, committees or subcommittees of the College or the Board, or the members of the committees or subcommittees, or the 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 of the College, public representative, the Board, committees or subcommittees of the College or the Board, 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.

**88** Whenever for any reason a quorum of any committee may not be available for a meeting or hearing, the Board may, for the purpose of such meeting or hearing, appoint to the committee such additional persons as are needed for a quorum.

**89 (1)** Nothing in this Act prohibits

- (a) 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;
- (b) the right of employees to engage in a lawful strike;

(c) the practise of any health profession authorized pursuant to a statute of the Province, by a health professional licensed pursuant to such statute, practising within the scope of practice of their profession;

(d) the carrying out of specific tasks constituting part of the practice of medical imaging technology or radiation therapy by persons authorized under Section 22(2) or under the *Regulated Health Professions Network Act*;

(e) the conducting of ultrasounds of the eye by persons acting under the direction of a medical practitioner;

(f) the measuring of follicles and endometrial thickness by a health professional licensed under a statute of this Province, as part of assisted reproduction therapy under the direction of a medical practitioner;

(g) the practice of diagnostic medical sonography by a registered nurse licensed under the *Registered Nurses Act* who

(i) is employed at the Izaak Walton Killam Health Centre in either the Fetal Assessment Treatment Centre or the Children's Heart Centre at the time of the coming into force of this Act, or

(ii) is employed at the Izaak Walton Killam Health Centre in either the Fetal Assessment Treatment Centre or the Children's Heart Centre following the coming into force of this Act and is either

(A) currently certified in Pediatric Echocardiography or Obstetrics and Gynecology by the American Registry for Diagnostic Medical Sonographers, or

(B) a registered nurse engaged in learning as part of the American Registry for Diagnostic Medical Sonographers' certification process for Pediatric Echocardiography or Obstetrics and Gynecology, who is practicing under the supervision of a person authorized to engage in the practice of diagnostic medical sonography;

or

(h) the practice of radiological technology by another regulated health professional at a specified site in a district health authority that has less than 25 patient beds and under circumstances prescribed in the regulations.

**(2)** Notwithstanding clause (1)(g), the exemption granted pursuant to subclause (1)(g)(ii) may be revised or revoked in accordance with the regulations, following consultation on such regulations with the Izaak Walton Killam Health Centre.

**(3)** The right of a registered nurse licensed under the *Registered Nurses Act* to continue in the practice of diagnostic medical sonography pursuant to subclause (1)(g)(i) terminates when such person vacates the employment position held by him or her at the Izaak Walton Killam Health Centre in either the Fetal Assessment Treatment Centre or the Children's Heart Centre at the time of the coming into force of this Act.

## TRANSITION

**90** Upon the coming into force of this Act, a complaint made pursuant to the former Act must continue to be proceeded with in accordance with this Act as nearly as circumstances permit.

**91 (1)** Notwithstanding this Act or the regulations, a person who is a member of the Association on the coming into force of this Act is eligible for registration in the College and eligible to be issued a relevant licence when the Act comes into force.

**(2)** Notwithstanding this Act or the regulations, a person who is an active member of the Canadian Association of Registered Diagnostic Ultrasound Professionals on the coming into force of this Act is eligible for registration in the College and eligible to be issued a relevant licence when the Act comes into force.

**(3)** A person who has been registered and issued a licence under subsections (1) or (2) continues to be eligible for the renewal of a licence under the regulations when the person meets the criteria for renewal as set out in the regulations.

**92 (1)** Notwithstanding this Act or the regulations,

(a) every person who, on the coming into force of this Act, has been certified to practise diagnostic medical sonography by the American Registry for Diagnostic Medical Sonographers, and who has engaged in the practice of diagnostic medical sonography in the Province during the 12 month period prior to the coming into force of this Act; and

(b) every person who, on the coming into force of this Act, has engaged in the practice of diagnostic medical sonography in the Province for a period of time during each of the past five consecutive years,

is eligible to be registered in the College and to be issued a licence as a diagnostic medical sonographer upon payment of the appropriate fee.

**(2)** A person who has been registered and issued a licence under subsection (1) continues to be eligible for the renewal of a licence under the regulations when the person meets the criteria for renewal as set out in the regulations.

**93** The former Act is repealed.

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

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