

Dietitians Act

CHAPTER 2 OF THE ACTS OF 2009



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CHAPTER 2 OF THE ACTS OF 2009

An Act Respecting the Practice of Dietetics

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Short title

- 1** This Act may be cited as the *Dietitians Act*. 2009, c. 2, s. 1.

Interpretation

- 2** In this Act,

- (a) “active-practising licence” means a licence to practise dietetics issued to a person who meets the criteria for entry in the active-practising roster as set out in the regulations;
- (b) “Board” means the Board of the College;
- (c) “by-law” means a by-law of the College;
- (d) “candidate dietitian” means a person who has been issued a candidate licence pursuant to this Act;
- (e) “candidate licence” means a licence to practise dietetics issued pursuant to this Act to a person who has completed a dietetics education program and who is eligible to write the entrance exam;

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

(g) “College” means the Nova Scotia College of Dietitians and Nutritionists;

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

(i) “complaint” means a notice in writing pursuant to Section 37, indicating possible professional misconduct, conduct unbecoming the profession, incompetence or incapacity of a member of the College;

(j) “Complaints Committee” means the Complaints Committee established by this Act;

(k) “continuing-competency program” means a continuing-competency program approved by the Board;

(l) “dietetics education program” means a degree educational program in dietetics or applied human nutrition that is approved by the Board;

(m) “dietitian” means an individual whose name appears on the Register and who is licensed to practise dietetics;

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

(o) “incapacity” means the status whereby a respondent, at the time of the subject-matter of a complaint, suffered from a medical, physical, mental or emotional condition, disorder or addiction that rendered the respondent unable to practise with reasonable skill or judgement or that may have endangered the health or safety of patients;

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

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

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

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

(t) “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, 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;

(u) “licence” means an active-practising licence, an active-practising licence with conditions or restrictions or a temporary or a candidate licence issued in accordance with this Act and the regulations;

(v) “licensing sanction” means

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

(ii) a consent reprimand ordered by the Complaints 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 Complaints Committee or the Professional Conduct Committee or their equivalent from another jurisdiction, or

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

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

(x) “practice of dietetics” means the translation and application of scientific knowledge of food and nutrition to human health through

(i) comprehensive nutritional assessment to determine nutritional status, nutrition-related diagnosis and nutritional requirements of individuals or populations related to health status and disease,

(ii) the planning, implementation and evaluation of nutrition interventions aimed at promoting health and preventing disease,

(iii) nutrition prescription, including enteral and parenteral nutrition and the prescription or ordering of drugs or other agents to optimize nutrition status,

(iv) ordering parameters required to monitor nutrition interventions and evaluate nutrition outcomes,

(v) the provision of nutrition education and counselling to clients, families, colleagues and health-care professionals,

(vi) development and evaluation of policies that affect food, food security and nutrition as it relates to health status,

(vii) integration of food and nutrition principles in the development and management of food service systems,

(viii) such delegated medical functions as are approved in accordance with the *Medical Act*, and

(ix) such other aspects of dietetics as may be prescribed in regulations approved by the Governor in Council, and

research, education, consultation, management, administration, regulation, policy or system development relevant to subclauses (i) to (ix);

(y) “practicum” means a period of preceptored practice of dietetics approved by the Board;

(z) “profession” means the profession in which the practice of dietetics is conducted;

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

(ab) “professional-conduct process” means the processes described in Sections 33 to 58 and the related processes described in the regulations;

(ac) “professional corporation” means one or more dietitians incorporated pursuant to the laws of the Province for the purpose of engaging in the practice of dietetics;

(ad) “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 and, without limiting the generality of the foregoing, may include

(i) failing to maintain the standards for the practice of dietetics,

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

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

(iv) misappropriating personal property, drugs or other property belonging to a patient or to the employer of a member of the college,

(v) wrongfully abandoning a patient,

(vi) neglecting to provide care to a patient,

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

(viii) falsifying records,

(ix) inappropriately using the professional status of dietitian for personal gain,

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

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

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

(xiii) taking or using any of the designations set out in Section 21 or describing the person's activities as "dietetics" or "nutrition therapy" in any advertisement or publication, including business cards, websites or signage, unless the referenced activity falls within the practice of dietetics;

(ae) "public representative" means a member of the Board or of a committee of the Board who is not a member of the College;

(af) "re-entry program" means a program approved by the Board that tests dietetic knowledge and provides for a period of preceptored practice of dietetics;

(ag) "Register" means the Register established pursuant to this Act;

(ah) "Registrar" means the Registrar appointed pursuant to this Act;

(ai) "Registration Appeal Committee" means the Registration Appeal Committee appointed pursuant to this Act;

(aj) "Registration Committee" means the Registration Committee appointed pursuant to this Act;

(ak) "registration examination" means such examination or examinations as may be approved from time to time by the Board as a prerequisite for qualification as a registered dietitian;

(al) "Re-instatement Committee" means the Re-instatement Committee appointed pursuant to this Act;

(am) "respondent" means the person who is the subject of a complaint or the subject of an appeal pursuant to Section 17;

(an) "roster" means the record of the category of licensing established pursuant to this Act or the regulations;

(ao) "scope of practice of the profession" means the roles, functions and accountabilities that dietitians are educated and authorized to perform;

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

(aq) “standards for the practice of dietetics” means the minimal professional practice expectations for any dietitian in any setting or role, approved by the Board or otherwise inherent in the profession;

(ar) “temporary licence” means a temporary licence to practise dietetics issued pursuant to this Act;

(as) “witness” includes every person who, in the course of a legal proceeding, is examined for discovery or is cross-examined upon an affidavit made by that person, answers any interrogatories or 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 the College or any representative of the College. 2009, c. 2, s. 2.

COLLEGE

Nova Scotia College of Dietitians and Nutritionists

3 (1) The Nova Scotia Dietetic Association, a society incorporated under the *Societies Act*, is hereby continued as a body corporate under the name of the Nova Scotia College of Dietitians and Nutritionists and is composed of its members.

(2) All assets and property held by the Nova Scotia Dietetic Association become the assets and property of the College at the time of the coming into force of the 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. 2009, c. 2, s. 3.

Duties of College

4 In order to

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

the College shall

- (d) regulate the practice of dietetics and govern its members in accordance with this Act and the regulations;
- (e) establish, develop and promote standards for the practice of dietetics among its members;
- (f) establish, develop and promote a code of ethics for its members;
- (g) approve a continuing-competency program for members to the benefit of the public interest;

(h) subject to clauses (d) to (g), and in the public interest, advance and promote the profession; and

(i) do such other lawful acts and things as are incidental to the attainment of the purposes and objects set out in this Section. 2009, c. 2, s. 4.

Powers of College

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

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

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

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

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

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

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

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

(h) borrow money for the use of the College on its credit, limit or increase the amount to be borrowed, issue bonds, debentures, debenture stock and other securities on the credit of the College and pledge or sell such securities for such sums or at such prices as deemed 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). 2009, c. 2, s. 5.

Annual meeting and annual report

6 (1) There shall be an annual general meeting of the College at such time and place as prescribed by the Board.

(2) An annual report must be distributed at or before the annual meeting for review by the membership and shall include a financial report by an auditor. 2009, c. 2, s. 6.

Board of College

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 members;
- (b) approving the processes for establishing, revising and monitoring the 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) The Board may take any action consistent with this Act by resolution.

(3) The Board is composed of

- (a) the president, the president-elect, the past president and the treasurer, each of whom must hold an active-practising licence;
- (b) such number of members at large as set out in the by-laws; and
- (c) no fewer than two and no more than three public representatives appointed by the Governor in Council who
 - (i) are not members of the College, and
 - (ii) have shown an interest in serving on the Board.

(4) Persons on the Board shall be elected or appointed or succeed to office in the manner prescribed by the by-laws.

(5) A majority of the Board constitutes a quorum.

(6) Notwithstanding subsection (4), public representatives on the Board continue to hold office until their successors are appointed or until such time as they are re-appointed.

(7) The persons on the Board of the Nova Scotia Dietetic Association immediately before the coming into force of this Act and the officers in office

immediately before the coming into force of this Act continue in office until their successors are elected or appointed pursuant to the by-laws. 2009, c. 2, s. 7.

Registrar of College

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

(2) The Registrar is the executive-director of the College and has such other duties as the Board determines.

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

(4) The Registrar shall hold such professional memberships as are set out in the by-laws.

(5) The Registrar is a non-voting member of the Board. 2009, c. 2, s. 8.

By-laws

9 The Board may make by-laws not inconsistent with this Act, after consulting with the membership,

(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 honoraria 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 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) establishing the composition, number, time and manner of the election or appointment of the Board;

(g) 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;

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

(i) prescribing the roles of the president and president-elect;

- (j) 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;
- (k) respecting the establishment of, and quorum for, committees as may be appointed by the Board and providing for the holding and conduct of meetings of such committees;
- (l) prescribing the professional memberships to be held by the Registrar;
- (m) respecting the seal of the College;
- (n) respecting the location of the head office of the College;
- (o) respecting the approval of forms required for the conduct of the business of the College;
- (p) approving the code of ethics and standards for the practice of dietetics;
- (q) respecting all other things necessary for the administration of the affairs of the College. 2009, c. 2, s. 9.

Regulations

10 (1) Subject to the approval of the Governor in Council, the Board may make regulations

- (a) regulating the registration, licensing, discipline and reinstatement of members of the College as dietitians;
- (b) prescribing additional educational, experiential or other prerequisites necessary before a dietitian may engage in specific aspects of the practice of dietetics;
- (c) respecting conditions for which temporary and candidate licences may be issued, including designations authorized for use by holders of temporary or candidate licences;
- (d) creating one or more rosters of licensing and prescribing the rights, privileges, qualifications and obligations of the members of each roster and prescribing the conditions for the entry and maintenance of members' names in each roster;
- (e) creating categories of affiliation with the College, including honorary, associate 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;
- (f) setting requirements for the approval of continuing-competency programs;
- (g) setting requirements for professional liability insurance or other forms of malpractice coverage or liability protection;

- (h) respecting the information to be included on the Register;
- (i) respecting the revocation or suspension of licences issued pursuant to this Act and the re-instatement of such licences and allowing for conditions, limitations or restrictions to be attached to a re-instated licence;
- (j) allowing for an award of costs on a solicitor-client or other basis;
- (k) providing that the licence of a member of the College be suspended without notice or investigation upon contravention of any regulation that requires the member to pay a fee, to file a document or do any other act by a specified or ascertainable date and providing for the re-instatement of a licence so suspended upon payment of such fee as determined by the Board;
- (l) respecting the ability of the Registrar, the Complaints Committee and the Professional Conduct Committee to impose a fine where members of the College have engaged in the practice of dietetics while not holding a current licence;
- (m) respecting the reporting and publication of decisions in disciplinary matters;
- (n) providing for the audits of some or all persons who hold a licence and their practice environments;
- (o) prescribing legislation pursuant to Section 45 the violation of which may require a member of the College to attend a hearing;
- (p) prescribing the requirements and processes for incorporation of dietitians;
- (q) providing for the retention and destruction of patient records maintained by a custodian appointed pursuant to this Act and processes and procedures to be utilized by the custodian;
- (r) defining any word or expression used but not defined in this Act;
- (s) further defining any word or expression defined in this Act;
- (t) 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 exercise by the Board of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*.

(3) 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. 2009, c. 2, s. 10.

REGISTRATION AND LICENSING

Register

11 (1) The Board shall keep a Register in which must be entered the name of every person who is entitled, pursuant to this Act, to be registered in the Register.

(2) The Register shall include such other information as may be 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 the practice of dietetics;

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

(c) any licensing sanctions imposed on a member of the College that are not otherwise subject to a publication ban. 2009, c. 2, s. 11.

Licences

12 (1) The categories of licences must be as set out in the regulations.

(2) The Board shall cause to be maintained separate rosters for each category of licence as provided by the regulations. 2009, c. 2, s. 12.

Registration Committee

13 (1) The Board shall appoint a Registration Committee, the membership of which consists of one public representative and not fewer than two dietitians from the active-practising roster.

(2) The Board shall appoint one of the members of the Registration Committee as the Chair of the Committee.

(3) The majority of the Registration Committee constitutes a quorum.

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

(5) Each member of the Registration Committee has all the rights, powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*. 2009, c. 2, s. 13.

Active-practising licence

14 (1) The Registrar shall register and issue an active-practising licence to a person who meets the criteria for registration and entry in the active-practising roster as set out in the regulations.

(2) The Registrar may impose conditions or restrictions on the active-practising licence with the consent of the member of the College if such conditions or restrictions are necessary in the interest of the public.

(3) Where conditions or restrictions are imposed by the Registrar pursuant to subsection (2), the Registrar shall issue to the applicant an active-practising licence with conditions or restrictions.

(4) Where the Registrar imposes conditions or restrictions pursuant to subsection (2), such conditions or restrictions are not licensing sanctions. 2009, c. 2, s. 14.

Temporary licence

15 (1) Where a person

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

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

and it is otherwise consistent with the objects of the College but impractical to issue an active-practising licence, with or without conditions or restrictions, the Registrar, 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 twelve months in total.

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

(4) Where conditions or restrictions are imposed by the Registrar pursuant to subsection (3), the Registrar shall issue to the applicant a temporary licence with conditions or restrictions.

(5) Where the Registrar imposes conditions or restrictions pursuant to subsection (3), such conditions or restrictions are not licensing sanctions.

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

(7) The decision of the Registrar respecting the issue of a temporary licence or a temporary licence with conditions or restrictions is final. 2009, c. 2, s. 15.

Candidate licence

16 (1) Where a person meets the criteria for the issuing of a candidate licence pursuant to the regulations, the Registrar shall issue a candidate licence to such person.

(2) A candidate licence issued pursuant to subsection (1) may only be issued for a specified period of time, not to exceed eighteen months in total.

(3) The College shall maintain a roster of candidate licences. 2009, c. 2, s. 16.

Appeal

17 Where an applicant

- (a) has been refused registration;
- (b) has been refused an active-practising licence or a candidate licence; or
- (c) has had conditions or restrictions imposed on registration or a licence without the applicant's consent,

the Registration Committee shall give written reasons for such decision and the applicant may, by written notice, appeal that decision to the Registration Appeal Committee within thirty days of receipt of such written notice. 2009, c. 2, s. 17.

Registration Appeal Committee

18 (1) The Board shall appoint a Registration Appeal Committee consisting of one public representative and not fewer than two dietitians from the active-practising roster.

(2) The Board shall appoint one of the members of the Registration Appeal Committee as the Chair of the Committee.

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

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

(5) Each member of the Registration Appeal Committee has all the rights, powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*. 2009, c. 2, s. 18.

Appeal procedure

19 (1) The Registration Appeal Committee, upon receipt of an appeal pursuant to Section 17, shall

- (a) set a date for the appeal that is not later than sixty days following receipt of the written notice of appeal;
- (b) serve written notice of the date, time and place of the appeal upon the appellant and the Registrar; and
- (c) advise the appellant of the right to
 - (i) be represented by legal counsel,
 - (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. 2009, c. 2, s. 19.

Decision

20 (1) The Registration Appeal Committee may make any determination that, in its opinion, ought to have been made by the Registrar or the Registration Committee.

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

(3) The decision of the Registration Appeal Committee is final. 2009, c. 2, s. 20.

Prohibitions

21 (1) No person shall engage in the practice of dietetics or describe the person's activities as "dietetics", "nutrition therapy" or "diet therapy" unless such person

- (a) holds an active-practising licence with or without restrictions or conditions;
- (b) is the holder of a temporary licence with or without restrictions or conditions;

(c) is the holder of a candidate licence with or without restrictions or conditions; or

(d) is otherwise authorized to engage in the practice of dietetics as set out in this Act or the regulations.

(2) No person shall

(a) take or use the designations “Dietitian”, “Registered Dietitian”, “Nutritionist”, “Professional Nutritionist”, “Professional Dietitian”, “R.D.”, “P.Dt”, “R.D.N.” or any derivation, translation or abbreviation thereof; or

(b) describe the person’s activities as “Dietetics”, “Nutrition Therapy” or “Diet Therapy”,

in the Province, either alone or in combination with other words, letters or descriptions to imply that the person is entitled to practise as a dietitian unless the person

(c) holds an active-practising licence with or without restrictions or conditions;

(d) is the holder of a temporary licence with or without restrictions or conditions; or

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

(3) No person shall engage in the practice of dietetics or take or use the designation “Dietetic Intern” or any derivation, translation or abbreviation thereof unless the person is engaged in a practicum approved by the Board and is authorized by the administrators of the practicum or otherwise authorized pursuant to the regulations to engage in the practice of dietetics.

(4) No person shall engage in the practice of dietetics or take or use the designation “Candidate Dietitian” or any derivation, translation or abbreviation thereof unless the person meets the criteria for the issuing of a candidate licence pursuant to this Act and the regulations and is authorized pursuant to the regulations to engage in the practice of dietetics.

(5) In any advertisement or publication, including business cards, websites or signage, no person shall take or use the designation “Registered Dietitian”, “Dietitian”, “Professional Nutritionist”, “Nutritionist”, “Dietetic Intern”, “Candidate Dietitian” or any derivation, translation or abbreviation thereof, or shall describe the person’s activities as “dietetics”, “nutrition therapy” or “diet therapy” unless the referenced activity falls within the definition of the “practice of dietetics”. 2009, c. 2, s. 21.

Restrictions on practice

22 (1) No dietitian shall engage in the practice of dietetics that falls outside that dietitian’s individual scope of practice.

(2) Unless otherwise authorized pursuant to this Act or the regulations, or any other law, no dietitian shall practise outside the scope of practice of the profession. 2009, c. 2, s. 22.

Practice in Province

23 For the purpose of this Act and the regulations

(a) a member of the College in the Province who is engaged in practice by electronic means to patients or clients outside of the Province is deemed to be practising the profession in the Province;

(b) a person, other than a member of the College, who resides outside of the Province and who engages in practice by electronic means to patients within the Province is not deemed to be practising the profession in the Province if the person is licensed pursuant to an enactment of the other jurisdiction;

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

(d) nothing in this Act prohibits the practice of the profession in the Province or the recovery of fees or compensation for professional services rendered as a dietitian 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. 2009, c. 2, s. 23.

No action may be brought

24 Subject to clause 23(d), no person shall bring an action in any court to collect fees, compensation or other remuneration for services performed as a dietitian, unless that person was the holder of a licence at the time the services were performed. 2009, c. 2, s. 24.

Certified statement as prima facie proof

25 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. 2009, c. 2, s. 25.

Record of conditions or restrictions

26 Where the right of a person to practise as a dietitian 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. 2009, c. 2, s. 26.

Register to be changed

- 27 (1)** The Registrar shall make a change in the Register if
- (a) data has been entered incorrectly;
 - (b) notification is received of the death of a member of the College;
 - (c) the registration of a member of the College has been revoked;
 - (d) the Complaints Committee, as part of an informal resolution of a complaint, or the Professional Conduct Committee authorizes the resignation of a member of the College from the Register; and
 - (e) a member of the College has requested, in writing, and the Registrar, as part of an informal resolution of a complaint or otherwise, has approved the resignation of the member.

(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 member of the College. 2009, c. 2, s. 27.

Removal of name from roster

- 28 (1)** The Registrar shall cause the removal of the name of a member of the College from the appropriate roster
- (a) if the member no longer meets the criteria for entry on the relevant roster;
 - (b) at the request of the member, upon surrendering any licence held by the member;
 - (c) if data has been incorrectly entered;
 - (d) if notification is received of the member's death;
 - (e) for non-payment of fees or other assessments levied under this Act or the regulations;
 - (f) if the member has been suspended, for the term of the suspension;
 - (g) if the registration of the member has been revoked; or
 - (h) if the Complaints Committee, the Professional Conduct Committee or the Registrar authorizes the resignation of a member from the Register.

(2) The name of a person removed from the appropriate roster pursuant to subsection (1)(a) to (f) shall 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 clauses 27(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 member permitted the member the opportunity to re-apply for membership in the College; and

(b) the Re-instatement Committee determines, on such conditions or with such restrictions as it directs, that the registration or licence should be re-instated. 2009, c. 2, s. 28.

Requirement to hold licence

29 (1) Every member of the College who is engaged in the practice of dietetics shall hold a current licence.

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

(a) ensure that the person, at the time of employment and each year employed thereafter, holds a current licence to practise dietetics; and

(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.

(3) Every person, other than a client, who employs an incorporated entity engaged in the practice of dietetics and every agency or registry that procures employment for an incorporated entity in the practice of dietetics shall comply with subsection (2) with respect to each dietitian who is in the employ of the incorporated entity. 2009, c. 2, s. 29.

Disciplinary findings or complaints from outside the Province

30 (1) A member of the College who engages in the practice of dietetics outside the Province, who was subject to any disciplinary findings while outside the Province or has outstanding complaints from outside the Province, shall not engage in the practice of dietetics 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 member to resume the practice of dietetics in the Province.

(2) Where the Registrar receives a notice pursuant to subsection (1), the Registrar may file a complaint. 2009, c. 2, s. 30.

Offences

- 31** (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 the practice of dietetics in the Province without complying with Section 29;
 - (c) engages in the practice of dietetics in violation of any condition or limitation contained in 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 two thousand dollars or to imprisonment for a term of not more than six months, or to both.

(2) The *Summary Proceedings Act* applies in addition to any 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.

(5) In a prosecution of an offence contrary to this Act or the regulations, the onus to prove that a person accused of an offence has the right to practise dietetics, or that a person comes within any of the exemptions provided by this Act, is on the person accused.

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

(7) For the purpose of this Act or the regulations, proof of the performance by a non-member of the College of one act in the practice of dietetics is sufficient to establish that a person has engaged in the practice of dietetics. 2009, c. 2, s. 31.

Injunctions

32 (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 deems it to be just, may grant 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 this Section. 2009, c. 2, s. 32.

PROFESSIONAL CONDUCT

Professional conduct process

33 (1) In accordance with the objects of the College, the professional-conduct process must seek to inhibit professional misconduct, conduct unbecoming a dietitian, incompetence and incapacity by investigating, on its own initiative or on the complaints of others, alleged instances of such misconduct, conduct unbecoming a dietitian, incompetence or incapacity and, when appropriate, disposing of the matter or matters in accordance with the regulations.

(2) Except when considered prejudicial to the attainment of the objects of the College, the professional-conduct process must take into account the potential for the rehabilitation of the respondent. 2009, c. 2, s. 33.

Jurisdiction of College continues

34 Where a member of the College 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. 2009, c. 2, s. 34.

Complaints Committee

35 (1) The Board shall appoint a Complaints Committee comprised of such number of members and public representatives as determined by the Board.

(2) The Board shall appoint a Chair and a Vice-chair of the Complaints Committee.

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

(4) Whenever for any reason neither the Chair nor the Vice-chair are available for purpose of subsections (5), (6) and (7), the Board may, for such purposes, appoint a member of the Complaints Committee as chair of the Complaints Committee.

(5) The Chair of the Complaints Committee shall appoint a panel of not fewer than three persons from the Complaints Committee, one of whom is a public representative, to act as the Complaints Committee for purpose of the professional-conduct process.

(6) The Chair of the Complaints Committee may sit on the panel and shall act as the Chair of the panel in this event.

(7) Where the Chair of the Complaints Committee is not appointed to the panel, the Chair of the Complaints Committee shall appoint a chair for such panel.

(8) A majority from the panel appointed pursuant to subsection (5), regardless of whether such persons are members or public representatives, constitute a quorum of the Complaints Committee.

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

(10) All Complaints Committee decisions require the vote of a majority of the panel of the Complaints Committee appointed pursuant to subsection (5).

(11) Where a proceeding is commenced before the Complaints Committee and the term of office of any person sitting on the Complaints Committee expires, that person may remain part of the Committee until the proceeding is concluded. 2009, c. 2, s. 35.

Fitness to Practise Committee

36 (1) The Board shall appoint a Fitness to Practise Committee comprised of such number of members and public representatives as determined by the Board.

(2) The Board shall appoint a Chair and a Vice-chair of the Fitness to Practise Committee.

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

(4) Whenever, for any reason, neither the Chair nor the Vice-chair are available for the purpose of subsections (5), (6) and (7), the Board may, for such purpose, appoint a member of the Fitness to Practise Committee as chair of the Committee.

(5) The Chair of the Fitness to Practise Committee shall appoint a panel of not fewer than three persons from the Committee, one of whom is a public representative, to act as the Fitness to Practise Committee for purposes of the professional-conduct process.

(6) The Chair of the Fitness to Practise Committee may sit on the panel and shall act as the Chair of the panel in this event.

(7) Where the Chair of the Fitness to Practise Committee is not appointed to the panel, the Chair of the Committee shall appoint a Chair for the panel.

(8) A majority from the panel appointed pursuant to subsection (5), regardless of whether the persons are members of the College or public representatives, constitute a quorum of the Fitness to Practise Committee.

(9) Failure of one or more Fitness to Practise Committee members to receive any notice of a meeting does not invalidate the proceedings at the meeting, and nothing precludes the members from waiving notice of meetings.

(10) All Fitness to Practise Committee decisions require the vote of a majority of the panel of the Committee appointed pursuant to subsection (5).

(11) Where a matter is referred to the Fitness to Practise Committee and the term of office of any person sitting on the Committee expires, that person may remain part of the Committee until the matter is concluded.

(12) The Fitness to Practise Committee shall perform such functions as set out in this Act and the regulations.

(13) Each member of the Fitness to Practise Committee has all the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*.

(14) The Fitness to Practise Committee may set its own procedures for meetings. 2009, c. 2, s. 36.

Complaints

- 37 (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. 2009, c. 2, s. 37.

Public Inquiries Act

38 Each member of the Complaints Committee and any investigator appointed by the Committee has all 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*. 2009, c. 2, s. 38.

Complaint procedure and jurisdiction

39 (1) The Complaints Committee may set its own procedure for meetings and hearings under Section 45.

(2) The Complaints 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 the Fitness to Practise Committee. 2009, c. 2, s. 39.

Complaint to be processed under regulations

40 Upon receipt of a complaint, the complaint must be processed in accordance with the regulations. 2009, c. 2, s. 40.

Incapacity may be referred to Fitness to Practise Committee

41 (1) Notwithstanding anything contained in this Act or the regulations, where a complaint involves allegations of incapacity or where a member of the College, in the absence of a complaint, discloses to the College that a member may be incapacitated, the Registrar may refer the matter to the Fitness to Practise Committee in accordance with the regulations.

(2) Where a matter is referred to the Fitness to Practise Committee, the matter must be disposed of in accordance with the regulations.

(3) The Fitness to Practise Committee or the Registrar may refer a matter to the Complaints Committee in the circumstances set out in the regulations.

(4) Where a matter is referred by the Fitness to Practise Committee or the Registrar to the Complaints Committee pursuant to subsection (3), the matter must be considered a complaint and be processed as any other complaint pursuant to this Act. 2009, c. 2, s. 41.

Publication ban

42 With respect to any decision issued by the Complaints 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 deemed necessary by the Committee. 2009, c. 2, s. 42.

Proceeding on complaint

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

(2) When a complaint is forwarded to the Complaints 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.

(3) In a proceeding before the Complaints Committee, a respondent has the right to

- (a) be represented by legal counsel;
- (b) disclosure of the complaint, any written reports of the investigator provided to the Complaints Committee and any other document produced or received by the Committee; and
- (c) a reasonable opportunity to present a response and make submissions. 2009, c. 2, s. 43.

Suspension of licence or restrictions

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

- (a) suspend a licence;
- (b) impose restrictions or conditions on a respondent's licence;
- (c) where a person does not hold a current licence, 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 member of the College shall receive forthwith, in writing, notice with reasons of a decision made pursuant to subsection (1).

(3) A member of the College who receives written notice pursuant to subsection (2) may request, in writing, within thirty days, an opportunity to meet with the Complaints Committee.

(4) Where a request is received pursuant to subsection (3), the Complaints Committee shall

- (a) provide an opportunity for the member of the College to meet with the Committee within ten days of the written request; and
- (b) after meeting with the member, may confirm, vary or terminate the suspension imposed pursuant to subsection (1).

(5) Where a meeting is held pursuant to subsection (4), the member of the College has the right to

- (a) be represented by legal counsel;
- (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.

(6) Where a Complaints 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 aspects of the Committee's decision should be provided to other affected individuals, other dietetic regulating bodies, any past, present or intended employer of the respondent or the public. 2009, c. 2, s. 44.

Charges or other proceedings

45 (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 member of the College, including a conviction under

- (i) the *Criminal Code* (Canada);
- (ii) the *Controlled Drug and Substances Act* (Canada); or
- (iii) such other legislation as 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 member of the College 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 Complaints Committee to fully disclose the facts and circumstances of the matters referred to in clauses (a) to (d).

(2) For the purpose of a hearing pursuant to subsection (1), the Complaints 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 member of the College is conclusive evidence that the member has committed the offence stated in the certificate, 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), the person shall report the matter to the Registrar immediately. 2009, c. 2, s. 45.

Confidentiality

46 (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 Complaints Committee, the Fitness to Practise 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 Complaints Committee, the Fitness to Practise Committee or the Professional Conduct Committee, may disclose to law enforcement authorities any information about possible criminal activity on the part of a member of the College that is obtained during an investigation pursuant to this Act;

(b) the Complaints Committee, the Fitness to Practise 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 the complaint or a matter before the Fitness to Practise Committee to an extra-provincial dietetics regulatory body if it is relevant and concerns the fitness of the member for membership in the extra-provincial dietetics regulatory body; and

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

(3) A witness in any legal proceeding, whether a party thereto or not, is excused from answering any question as to any proceedings of the Complaints Committee, the Fitness to Practise Committee, the Professional Conduct Committee or the Re-instatement 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 Complaints Committee, the Fitness to Practise Committee, the Professional Conduct Committee or the Re-instatement Committee.

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

(5) Unless otherwise determined by a court of competent jurisdiction, a decision of the Complaints Committee, the Fitness to Practise Committee or the Professional Conduct Committee is not admissible in a civil proceeding other than an appeal or review pursuant to this Act. 2009, c. 2, s. 46.

Professional Conduct Committee

47 (1) The Board shall appoint a Professional Conduct Committee comprised of such number of members 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) Whenever, for any reason, neither the Chair nor the Vice-chair are available for purpose of subsections (5), (6) and (7), the Board may, for such purposes, appoint a member of the Professional Conduct Committee as chair of the Committee.

(5) The Chair of the Professional Conduct Committee shall appoint a panel of not fewer than three persons from the Committee, at least one of whom is a public representative, to act as the Professional Conduct Committee for purposes of the professional-conduct process.

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

(7) 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.

(8) A majority from the panel appointed pursuant to subsection (5), regardless of whether such persons are members of the College or public representatives, constitute a quorum of the Professional Conduct Committee.

(9) No person on the Professional Conduct Committee may concurrently serve on the Complaints Committee.

(10) 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.

(11) All Professional Conduct Committee decisions require the vote of a majority of the panel of the Committee appointed pursuant to subsection (5) or the quorum of such panel in the event the full panel is not sitting.

(12) 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. 2009, c. 2, s. 47.

Hearing

48 (1) Where the Complaints Committee refers a matter to the Professional Conduct Committee, the Registrar shall, within thirty days from the date of the referral, fix a date, time and place for holding a hearing, which shall commence not later than ninety days from the date of the referral by the Complaints Committee, 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 the date.

(2) A notice of hearing, containing such information as required by the regulations, shall be forwarded by the Registrar to the respondent and the complainant at least thirty days prior to the hearing. 2009, c. 2, s. 48.

Service of documents

49 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 their 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. 2009, c. 2, s. 49.

Settlement proposal

50 Where the Complaints 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 shall be dealt with in accordance with the regulations. 2009, c. 2, s. 50.

Public Inquiries Act

51 Each person on the Professional Conduct Committee has all the rights, powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*. 2009, c. 2, s. 51.

Proceedings of Professional Conduct Committee

52 (1) A hearing held by the Professional Conduct Committee must be conducted in accordance with the regulations.

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

- (a) be represented by legal counsel;
- (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 ten 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; or
- (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. 2009, c. 2, s. 52.

Disposition of matters

53 (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 member of the College, the Committee shall determine whether the member is entitled to apply for re-instatement of registration or whether the revocation is final.

(3) Where the Professional Conduct Committee determines that a member of the College whose registration has been revoked may apply for re-instatement, the Committee shall determine the time when the member may apply for re-instatement, which cannot be earlier than two years from the date of the Committee's decision. 2009, c. 2, s. 53.

Re-instatement Committee

54 (1) The Board shall appoint a Re-instatement Committee, comprised of not fewer than three members of the Board, at least one of whom shall be a public representative.

(2) The Board shall appoint the Chair of the Re-instatement Committee.

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

(4) A quorum of the Re-instatement Committee consists of a majority of the members of the Committee, regardless of whether such members are members of the College or public representatives.

(5) Applications for re-instatement must proceed in accordance with the regulations.

(6) Where a licence has been re-instated pursuant to this Section, the Re-instatement Committee, in its discretion, shall determine whether publication of the re-instatement is required in the interest of the public.

(7) The Re-instatement Committee has all 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*.

(8) In a proceeding before the Re-instatement Committee, a member of the College has the right to

- (a)** be represented by legal counsel, a union representative or another representative at the member'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.

(9) Evidence is not admissible before the Re-instatement Committee unless, at least ten 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.

(10) Notwithstanding subsection (9), the Re-instatement Committee may, in its discretion, allow the introduction of evidence that is otherwise inadmissible under subsection (9) and may make directions it considers necessary to ensure that a party is not prejudiced. 2009, c. 2, s. 54.

Records and publication

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

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

(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. 2009, c. 2, s. 55.

Expiry of suspension

56 (1) Where the period of suspension of a member of the College has expired, the conditions imposed on the member have been satisfied or the restrictions imposed on the member have been removed, the Registrar shall restore the licence to the member in the form it existed before the imposition of the suspension, conditions or restrictions, if the member otherwise meets the criteria for the issuing of a licence but, where the licence has expired, the member 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 dietetic 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. 2009, c. 2, s. 56.

Power to retain assistance

57 (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. 2009, c. 2, s. 57.

Appeal

58 (1) A party may appeal on any point 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 thirty 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 *Civil Procedure Rules* governing appeals from the Supreme Court of Nova Scotia to the Nova Scotia Court of Appeal that are not inconsistent with this Act, apply *mutatis mutandis* to appeals to the Court of Appeal pursuant to this Section.

(5) Where a matter is appealed to the Nova Scotia Court of Appeal pursuant to this Section, the decision of the Professional Conduct Committee takes effect immediately unless the Court of Appeal grants a stay of any order made pursuant to this Act if, in its discretion, it deems fit. 2009, c. 2, s. 58.

PROFESSIONAL INCORPORATION

Nothing in Act prevents incorporation

59 Subject to any regulations made pursuant to clause 10(1)(t), nothing in this Act prevents the incorporation of a dietitian, but every dietitian continues to be personally responsible for compliance with this Act and the regulations, notwithstanding any such incorporation. 2009, c. 2, s. 59.

Liability for acts or omissions

60 All persons who carry on the practice of dietetics 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. 2009, c. 2, s. 60.

Relationship with client

61 Where a member of the College is engaged in the practice of dietetics 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 dietitian and a client. 2009, c. 2, s. 61.

Compellability of witnesses

62 All shareholders, directors, officers and employees of an incorporated entity engaged in the practice of dietetics are compellable witnesses in any proceedings pursuant to this Act. 2009, c. 2, s. 62.

Powers of inspection, investigation or inquiry apply

63 Where the conduct of a dietitian is the subject of a complaint, investigation or inquiry and the dietitian 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 dietitian or the dietitian's records may be exercised in respect of the incorporated entity or its records. 2009, c. 2, s. 63.

Offence by incorporated entities

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

(2) Sections 31 and 32 apply *mutatis mutandis* to all incorporated entities engaged in the practice of dietetics. 2009, c. 2, s. 64.

GENERAL**Member's duty to report**

65 (1) A member of the College has a duty to report to the Registrar if the member has reasonable grounds to believe that another member

- (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 member of the College has a duty to report to the regulator of another health profession if the member has reasonable grounds to believe that a member 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 member of the College for any report made pursuant to subsection (1) or (2), if the report was made in good faith. 2009, c. 2, s. 65.

Fines and costs are debts due to College

66 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. 2009, c. 2, s. 66.

No action lies

67 (1) No action for damages or other relief lies against the College, the Board, the persons on the Board, committees or subcommittees of the College or the Board, or the persons on 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 within the jurisdiction of the College, or in carrying out the duties or obligations under this Act;

(b) for any decision, order or resolution made or enforced within the jurisdiction of the College; or

(c) for any act or failure to act, proceeding initiated or taken, or any decision, order or resolution made or enforced outside the jurisdiction of the College, in good faith.

(2) No member of the College, 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.

(3) No action lies against any person for the disclosure of any information or any document or anything therein pursuant to this Act unless the disclosure is made with malice. 2009, c. 2, s. 67.

Deemed eligibility for registration

68 Notwithstanding this Act or the regulations, for a period of one year following proclamation of this Act, every person who, on the coming into force of this Act, has received the certification “Professional Dietitian” from the Nova Scotia Dietetic Association and has engaged in the practice of dietetics in the previous twenty-four months, is deemed eligible for registration with the College and is

eligible for the issuing of an active practising licence upon payment of the appropriate fee and the submission of the appropriate application. 2009, c. 2, s. 68.

Power to appoint additional committee members

69 Whenever, for any reason, a quorum of members 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 members as are needed for a quorum. 2009, c. 2, s. 69.

Act does not prohibit

70 Nothing in this Act prohibits

- (a) the private care of a person without remuneration;
- (b) 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;
- (c) the right of employees to engage in a lawful strike;
- (d) the practice of any health profession authorized pursuant to a statute of the Province, by a health professional authorized pursuant to such statute, practising within the authorized scope of practice of his or her profession and his or her individual scope of practice, if such person does not describe his or her practice as “Dietetics”, “Nutrition Therapy”, “Diet Therapy” or words of similar meaning; or
- (e) the carrying out of specific tasks constituting part of the practice of dietetics by persons authorized under the regulations and under the supervision and control of a dietitian. 2009, c. 2, s. 70.

Repeal

71 Chapter 361 of the Revised Statutes, 1989, the *Professional Dietitians Act*, is repealed. 2009, c. 2, s. 71.

Effective date

72 This Act comes into force on such day as the Governor in Council orders and declares by proclamation. 2009, c. 2, s. 72.

Proclaimed	-	January 17, 2023
In force (except s. 15(7))	-	January 24, 2023
s. 15(7)	-	not proclaimed