

Chapter 17

AN ACT TO AMEND THE NURSING ACT

(Assented to November 5, 2003)

The Commissioner of Nunavut, by and with the advice and consent of the Legislative Assembly, enacts as follows:

1. **The *Nursing Act* is amended by this Act.**
2. **Section 1 is amended by:**
 - (a) **repealing the definition "certificate of registration";**
 - (b) **repealing the definition "Nurses Association" and substituting the following:**

"Association" means the Registered Nurses Association of the Northwest Territories and Nunavut continued under subsection 6(1) of the *Nursing Profession Act* (Northwest Territories); (*Association*)

- (c) **adding the following definitions in alphabetical order:**

"nurse practitioner" means a person who is registered under section 24 of the *Nursing Profession Act* (Northwest Territories); (*infirmière praticienne ou infirmier praticien*)

"practice of nursing" means the practice of registered nurses, nurse practitioners, and temporary certificate holders; (*exercice de la profession infirmière*)

"registered nurse" means a person who is registered under section 22 of the *Nursing Profession Act* (Northwest Territories); (*infirmière autorisée ou infirmier autorisé*)

"temporary certificate" means a temporary certificate issued under section 23 of the *Nursing Profession Act* (Northwest Territories), exempting a person from the requirement to be a registered nurse; (*certificat temporaire*)

"temporary certificate holder" means a person who is registered under section 23 of the *Nursing Profession Act* (Northwest Territories). (*titulaire de certificat temporaire*)

3. **The Act is amended by striking out "Nurses Association" wherever it appears and substituting "Association".**

4. **The heading preceding section 2 is struck out and the following substituted:**

POWERS OF ASSOCIATION

5. **Section 2 is amended by striking out "profession of nursing" and substituting "practice of nursing".**

6. Section 3 is repealed and the following substituted:

Information to Minister

3. (1) The Board of Directors shall forward to the Minister
- (a) the recommendations of the Education Advisory Committee established under section 16 of the *Nursing Profession Act* (Northwest Territories) relating to standards for nursing education; and
 - (b) the results of any evaluation of, and any recommendations for changes to
 - (i) standards for nursing education,
 - (ii) nursing education programs, and
 - (iii) the process for approval of nursing education programs.

Nursing education programs

- (2) The Board of Directors may approve nursing education programs in Nunavut as acceptable prerequisites for registration in the Association.

7. The heading preceding section 5 is repealed and the following substituted:

REGISTRATION

8. Section 5 is repealed and the following substituted:

Right to recover reasonable charges

5. A person may bring an action for the recovery of reasonable charges for professional services, advice or visits provided and the costs of any materials or appliances supplied by that person during the time the person was a registered nurse, a nurse practitioner or a temporary certificate holder.

9. Section 6 is repealed and the following substituted:

Use of title – registered nurse

6. (1) A registered nurse may use the title "Registered Nurse" and may use after his or her name the designation "Reg. N." or "R.N.".

Use of title – nurse practitioner

- (2) A nurse practitioner may use the title "Nurse Practitioner" and may use after his or her name the designation "N.P." or "R.N.(N.P.)".

10. The following is added after section 6:

Practice of a temporary certificate holder

- 6.1. A temporary certificate holder is entitled to apply nursing knowledge, skills and judgment as set out in subsection 2(1) of the *Nursing Profession Act* (Northwest

Territories), subject to the bylaws of the Association and to any terms and conditions set out in the temporary certificate.

11. Section 7 is repealed and the following substituted:

Emergencies

7. Nothing in this Act restricts the rendering of nursing services in case of emergency.

12. Section 8 is repealed and the following substituted:

Emergency services

8. (1) Nothing in the *Dental Profession Act*, the *Medical Profession Act*, the *Pharmacy Act* or the *Veterinary Profession Act* prohibits a registered nurse, a nurse practitioner or a temporary certificate holder from

- (a) in the course of administering emergency medical aid or treatment, doing anything for which a licence is required under those Acts; or
- (b) doing anything in an emergency in an attempt to relieve the pain and suffering of a person or animal.

Protection from action

(2) A registered nurse, a nurse practitioner or a temporary certificate holder shall not be held liable for civil damages as a result of acts or omissions performed in good faith under subsection (1) unless it is established that injuries or death were caused by gross negligence on his or her part.

12.1. The following is added after section 8:

HEARING

Hearing

8.1. A Board of Inquiry shall be designated under subsection 41(1) of the *Nursing Profession Act* (Northwest Territories) and shall hear complaints in accordance with sections 41 to 43 and subsections 44(1), (2), (4), (5), and (6) of the *Nursing Profession Act* (Northwest Territories).

Testimony of non-resident witness

8.2. For the purpose of obtaining the testimony of a witness who is outside of Nunavut, the Nunavut Court of Justice, on application by the Executive Director, the complainant or the nurse who is the subject of the complaint, without notice to the other parties, may make an order appointing an examiner to obtain the evidence of the witness under the Rules of the Nunavut Court of Justice, with any modifications that the circumstances may require.

Civil contempt

8.3. (1) On application to the Nunavut Court of Justice in accordance with the Rules of the Nunavut Court of Justice, proceedings for civil contempt of court may be brought against a witness

- (a) who fails
 - (i) to attend before a hearing of the Board of Inquiry after receiving a notice to attend,
 - (ii) to produce documents, records or other materials as required by a notice to produce them, or
 - (iii) in any way to comply with a notice referred to in subparagraph (i) or (ii); or
- (b) who refuses to be sworn or affirmed, or to answer any question allowed by the Board of Inquiry before whom the hearing is being conducted.

Unprofessional conduct

(2) If the witness referred to in subsection (1) is the nurse who is the subject of the complaint, the failure or refusal may be held by the Board of Inquiry to be unprofessional conduct.

Compellable witness

8.4. (1) A nurse or any other person who, in the opinion of the Board of Inquiry, has knowledge in respect of a complaint, is a compellable witness at a hearing into that complaint.

Nurse as witness

(2) A nurse may be examined on oath or affirmation on all matters relevant to the hearing and shall not be excused from answering a question on the ground of professional privilege or on the ground that the answer might

- (a) tend to incriminate the nurse;
- (b) subject the nurse to punishment under the disciplinary provisions of this Act or the *Nursing Profession Act* (Northwest Territories); or
- (c) tend to establish the liability of the nurse
 - (i) in a civil proceeding at the instance of the Government of Nunavut or any person, or
 - (ii) to prosecution under an Act of Nunavut or an Act of Canada.

Evidence not to be used

(3) If the answer given by the nurse

- (a) tends to incriminate the nurse,
- (b) subjects the nurse to punishment, or
- (c) tends to establish the liability of the nurse,

it may not be used or received against the nurse in any civil proceedings or in any proceedings under any other Act of Nunavut, except in a prosecution for or proceedings in respect of perjury or the giving of contradictory evidence.

13. Section 9 is repealed and the following substituted:

Prohibitions

9. (1) Subject to subsections (3) and (4), no person shall
- (a) hold himself or herself out to the public by any title, designation or description as a registered nurse or under that title, designation or description render or offer to render services of any kind to a person for a fee or other remuneration, unless he or she is a registered nurse;
 - (b) use the title "Registered Nurse" or the designation "Reg. N." or "R.N.", unless he or she is a registered nurse;
 - (c) hold himself or herself out to the public by any designation or description as a temporary certificate holder or under that designation or description render or offer to render services of any kind to a person for a fee or other remuneration, unless he or she is a temporary certificate holder; or
 - (d) knowingly employ or engage a person to provide the services of a registered nurse unless the person so employed is a registered nurse or a temporary certificate holder.

Prohibitions respecting nurse practitioners

- (2) Subject to subsections (3) and (4), no person shall
- (a) hold himself or herself out to the public by any title, designation or description as a nurse practitioner or under that title, designation or description render or offer to render services of any kind to a person for a fee or other remuneration, unless he or she is a nurse practitioner;
 - (b) use the title "Nurse Practitioner" or the designation "N.P." or "R.N. (N.P.)", unless he or she is a nurse practitioner; or
 - (c) knowingly employ or engage a person to practice as a nurse practitioner, unless the person so employed or engaged is a nurse practitioner.

Exception to restriction on practice

- (3) A person who is not regularly engaged in the practice of nursing in Nunavut, but who is registered as a nurse in another province or territory may, without being registered under the *Nursing Profession Act* (Northwest Territories),
- (a) use any title, designation or description that he or she is authorized to use in the province or territory of registration, and
 - (b) provide nursing services, within the scope of those authorized by his or her registration in the province or territory of registration,

in the course of assisting with the care of a patient who is being transported into Nunavut from the province or territory where the nurse is registered, or out of Nunavut to the province or territory where the nurse is registered.

Exception for employers

(4) A person may employ or engage a person described in subsection (3) to perform the services described in that subsection.

14. Section 10 is amended by

- (a) **striking out "\$500" and substituting "\$5000"; and**
- (b) **striking out "30 days" and substituting "90 days".**

15. Section 11 is repealed and the following substituted:

Limitation period

11. A prosecution for an offence under this Act or the regulations may not be commenced more than two years after the day when the offence is alleged to have been committed.

16. Section 12 is repealed and the following substituted:

Burden of proof

12. In a prosecution under this Act, a person against whom a charge is laid has the burden of proving that, at the time of the alleged offence,

- (a) the person was a registered nurse, a nurse practitioner or a temporary certificate holder; or
- (b) the person was properly registered as a nurse in another province or territory.

17. Section 13 is amended by striking out "sections 36 to 40" and substituting "sections 62 to 64".

CONSEQUENTIAL AMENDMENTS

Disease Registries Act

18. Section 1 of the *Disease Registries Act* is amended by repealing paragraph (d) of the definition "health care professional" and by substituting the following:

- (d) a registered nurse, a nurse practitioner or a temporary certificate holder under the *Nursing Profession Act* (Northwest Territories);

Emergency Medical Aid Act

19. (1) The *Emergency Medical Aid Act* is amended by this section.

(2) Section 1 is repealed and the following substituted:

Definition

1. In this Act, "nurse" means a registered nurse, a nurse practitioner or a temporary certificate holder under the *Nursing Profession Act* (Northwest Territories).

(3) The English version of section 2 is amended by striking out "registered" wherever it occurs.

Evidence Act

20. Section 13 of the *Evidence Act* is amended by adding "or the Nurse Practitioner Register" after "Nursing Register" in subparagraph (d)(i) of the definition "health care professional".

Labour Standards Act

21. Section 30 of the *Labour Standards Act* is repealed and the following substituted:

Medical Certificate

30. For the purposes of this Part, a medical certificate must be signed by a qualified medical practitioner or, in a community in Nunavut in which no qualified medical practitioner is resident, by a registered nurse, a nurse practitioner or a temporary certificate holder under the *Nursing Profession Act* (Northwest Territories).

Pharmacy Act

22. Section 1 of the *Pharmacy Act* is amended by repealing the definition of "nurse" and substituting the following:

"nurse" means a registered nurse, a nurse practitioner or a temporary certificate holder under the *Nursing Profession Act* (Northwest Territories), or a person registered under the law of a province or a territory to practise the profession of nursing; (*infirmière ou infirmier*)

COMMENCEMENT

Coming into force

23. This Act comes into force on the later of January 1, 2004 and the day on which the *Nursing Profession Act*, S.N.W.T. 2003, c. 15, comes into force.